

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on March 15, 1989, at 9:00 a.m., Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Tom Rasmussen, Senator Eleanor Vaughn.

Members Excused: Senator Paul Rapp-Svrcek

Members Absent: None

Staff Present: Eddy McClure

HEARING ON HB 396

Presentation and Opening Statement by Sponsor:

Representative Ervin Davis stated that HB396 is a real simple bill. He indicated it is an act renaming the Board of Speech Pathology and Audiology; changing and redefining certain terms relating to licensure of speech-language pathologists and audiologists; revising provisions concerning license renewal, and amending several sections. He indicated the name is being changed to the Board of Speech Language Pathologists and Audiologists.

Representative Davis indicated he would defer questions to the proponent from the board, who will be testifying in favor of the bill.

List of Testifying Proponents and What Group they Represent:

Marilyn Pearson, Board of Speech Language Pathologists and Audiologists, Board of Licensure

Testimony:

Ms. Pearson indicated the purpose of the bill is to change the wording, to make it consistent with the field, from Speech

Pathologists to Speech Language Pathologists. She noted it does not change the original intent of the bill, and is strictly housekeeping.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Hofman asked if they are doing nothing more than redefining what they are doing, renaming the Board, and putting it into more clear language.
- A. Ms. Pearson responded yes, that is correct.
- Q. Senator Hofman asked if it does not change anything that they do.
- A. Ms. Pearson responded no.
- Q. Senator Bengtson indicated there must have been a problem that precipitated the need for this change.
- A. Ms. Pearson responded that the language is being changed to make it more consistent with the language at the national level. She indicated the consumer is used to hearing speech language pathologist, and this is to make it consistent with what the consumer recognizes.
- Q. Senator Bengtson asked if that will shut people out, making it more difficult to get a license.
- A. Ms. Pearson responded there would be no change in the requirements for licensure.
- Q. Senator Bengtson asked if there are any other benefits for conforming with the national association.
- A. Ms. Pearson responded it will benefit the consumer, because it is the same as the terminology the consumer is familiar with.

Senator Bengtson indicated she would assume that other states are doing the same thing, updating the code as it deals with their profession.

- Q. Chairman Farrell indicated there is a new section, on page 10, lines 9 through 11, and asked why that is there,

indicating he does not understand, if they are only changing the name.

- A. Ms. Pearson responded there was a concern on the part of the hearing aid dealers that, by making these wording changes in the bill, audiologists may have an exemption for having to apply for a hearing aid license. She indicated the board and the individual audiologists agree it is necessary to have this wording in so that audiologists have to meet the requirements for dispensing of hearing aids, and to make it clear that audiologists still have to meet the hearing aid requirements.
- Q. Chairman Farrell referred to page 13, and asked if this bill is requiring continuing education.
- A. Ms. Pearson responded yes, but that no changes were made. She indicated that continuing education requirements are part of the law.
- Q. Chairman Farrell asked, if they are part of the law already, why are they putting it in this bill.
- A. Ms. Pearson asked Chairman Farrell if he is referring to page 13, which states "renewal application." Upon his response that he is, she indicated a wording change occurred there, and what was removed was the date for renewal of the license. She noted that the original bill said that a renewal must be made by October 1, but they removed the date of renewal, and the administrative rules deal with the date for renewal. She added that the continuing education requirements for renewal are not changed.
- Q. Chairman Farrell asked where it was removed.
- A. Senator Vaughn responded page 12.
- Q. Chairman Farrell asked Ms. Pearson if they have stricken October 1.
- A. Ms. Pearson responded yes, and read the portion on page 12, which states "each licensed speech language pathologist or audiologists shall", noting it used to say "on or before October 1 of each year, "pay to the board the fee for the renewal of his license", and indicated they removed the date for renewal from the law.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 4 of 57

Senator Bengtson read section 37-15-309, which states, "The board shall develop standards and methods of documentation and establish procedures for causing individuals who have been licensed to demonstrate continued education before renewing any license more than twice.", and indicated she does not know why that is even necessary, except for that date, probably.

Closing by Sponsor:

Representative Davis indicated he thinks the committee has pretty well received the correct answers, noting the only hang-up they ever had was on the one about the hearing aid dispenser people, who called and asked if they were not requiring anyone to be licensed. He added that was not the case. He then reported those people came in, their problems were answered, and they support it 100%. He stated they had no opposition, after that, on the floor, in committee, or since. He noted that, with the clean-up language, they think it is a reasonably good bill, and recommend the committee's passage of the bill.

Chairman Farrell announced the hearing on HB396 as closed.

HEARING ON HB 284

Presentation and Opening Statement by Sponsor:

Representative Hal Harper stated that HB284 is a bill that he thinks, in its current form, is subject to the sunrise provisions. He reported there was a letter from the auditor, before this session, and they believe that HB284, in this effort, would not be covered by sunrise, but that he thinks, the way the bill has come out, it is, noting he wanted to tell the committee that right off the bat. He reported that he asked the legislative auditor to look at it, and indicated Mr. Jim Nelson, from the auditor's office, is here, to look at possible ways to get this act from under sunrise.

Representative Harper stated he thinks this is an important bill, and he wants to carry it in front of the committee, adding that there are a lot of people here who wish to speak on the bill, and he would appreciate the committee's indulgence. He indicated this is a bill that will provide for the licensure of a new type of radiation application, which is radiation therapy technologist, and that the basic reason for it is that, during the last number of years, the use of radiation has grown and expanded, and has been divided into

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 5 of 57

subspecialties. He noted there are three, now, that there are radiographers, who are the x-ray people, nuclear medicine technologists, who are the people that inject radioactive isotopes, and radiation therapy technologists, which is what this bill identifies, and who are the people that plan and deliver radiation, especially to cancer victims and patients. He indicated this bill will provide for the licensing of that last type of person, and he thinks research demonstrates the dangers that x-rays pose, and that daily, it seems, they are finding out the new dangers, which indicates a separate kind of licensure is needed in this area.

Representative Harper stated he thinks the people who are here can do a better job of explaining this situation to the committee.

List of Testifying Proponents and What Group they Represent:

Betty L. Munoz, R.T.T., Columbus Hospital  
James F. Ahrens, President, Montana Hospital Association  
Tom Traxler, Northern Rockies Cancer Center  
Carol Angland, Board of Radiological Technologists

Testimony:

Ms. Munoz's written testimony is attached as Exhibit 1.

Testimony:

Mr. Ahrens stated they would certainly support the concept of licensure of radiation therapy personnel. He indicated, as the committee has heard, it is an important area, and a growing area. He noted that some hospitals still have some concerns, and suggested that, if they are here today, and have valid concerns, in view of the situation, maybe they can also be incorporated into the legislation, as proposed.

Mr. Ahrens stated it would appear to him that radiation technologists are licensed already. He indicated he would not propose, or purport to know the intricacies of the sunrise law, but that it looks to him, at some degree, since they are licensed, already, this could be considered, perhaps, some type of extension of the current licensure regulations, noting that is not for him to decide, but at least it appears that it might be an option the Legislative Auditor might pursue. He indicated that, in any event, he thinks it is an important area and that, either now or in the future, these personnel, who are dealing in life and death situations, as far as

radiation therapy is concerned, he thinks merit some type of licensure or certification.

Testimony:

Mr. Traxler reported that his position at the Northern Rockies Cancer Center is chief technologist, among other things; window washer, floor scraper and, lately, scooping snow, noting that maybe he has been stepping out of bounds, since he does not have a license to do that.

Mr. Traxler stated he is here to give just a little bit of testimony, which he believes is important, to this bill that is before the committee today, adding that he, too, knows nothing about the sunrise law. He indicated that, if it happens that it impinges on this particular law, he suspects they will have to do something different. He noted he thinks that Ms. Munoz gave a very good testimony, in telling the committee what radiation therapy technology is, and what it is that they do. He indicated that he will not bore the committee with going over the same things again, except to say that he really believes, if a center or a hospital is committed to the community to provide radiation therapy to the people of the community, then, certainly, he thinks they have a responsibility to see that the properly trained people are hired. He noted there could be some legal problems involved, and indicated they need this licensure, that there is no question about it, noting there are very few of them in the state and, for that reason, it would be difficult to set up a separate agency just for them, which is why they support this bill. He indicated he thinks the practice of hiring x-ray techs, just anyone, can not be tolerated by the citizens of Montana, and he asked that the committee follow through with passage of this bill.

Testimony:

Ms. Angland stated she is here to tell the committee that they are in support, that radiation therapists should come under their licensure bill.

List of Testifying Opponents and What Group They Represent:

Pamela J. Bettcher, R.T.T., Director, Radiation Oncology, St. Patrick Hospital Cancer Center

Testimony:

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 7 of 57

Ms. Bettcher stated that she is very much in favor of licensing for radiation therapy technologists, however, she feels this bill is not written with input from the technologists that it will directly govern. She reported she talked with other technologists in the state, who were unaware that such a bill was in existence and, since there are only 15 of them, they feel they could have gotten together, looked over other states' licensing laws, and come up with something a little bit better for all of them.

Ms. Bettcher indicated that, in addition, there are many questionable points in HB284, which need to be cleared up before it should even be considered. She reported that, after going over the bill with the technologists, doctors, physicists and hospital administrators, she has compiled a list of problems. She referred the committee to page 2, line 6, which states "a medical physicist", and indicated it says that person is certified by the American college of radiology, noting the American college of radiology is not a certifying body, that the American board of radiology is the certifying body. She indicated this was pointed out by her physicist, and needs to be clarified. She then referred to the same page, line 7, which lists the duties of a radiation therapy technologist. She reported that there are instances when people, other than licensed therapy technologists, can cut blocks, which shield out certain areas of radiation, noting all this is done under the supervision of the doctor, the radiation oncologist. She indicated she feels the rad board should contain members, noting she hopes, if this goes through, it will, who are radiation therapy technologists, and those people should have the authority to look at special cases, and review instances where the requirements written in this bill may be overlooked, for extenuating circumstances. She noted she is from New York State, and their licensing law has clauses which allow the board to review special cases, and they also have an exam, which she thinks is important for this state. She then referred to page 4, line (j), which specifically lists that someone licensed in radiation therapy should possess the knowledge of critical organ doses, and asked how do they know this, if they do not institute some sort of exam. She stated that x-ray techs, trained in x-ray technology, do not learn critical organ doses to the extent that radiation therapy technologists do, adding that, if someone is looking out for side-effects, that a doctor may not see every day, because the therapist sees the patient every day, they should have the knowledge of this, noting that she agrees, but she thinks they should have some way of monitoring that.

Ms. Bettcher then referred to page 8, and indicated that, not only does the radiologist need to be certified in therapy, she thinks that (d) should read "5 years of full-time experience in the field of radiation therapy." She pointed out that, as written, an x-ray tech can take chest x-rays today, and come over and treat cancer patients with thousands of times more lethal doses. She indicated that, again it states, in that section, radiation oncologists are certified by the American college of radiology, noting they are certified by the American board of radiology, or the American board of health physics. She stated that, again, she feels the radiology board should contain members, not only of radiation therapy, but, possibly, general public, so that all could be involved. She reported that, in New York, they do. (Upon a comment that Montana does, Ms. Bettcher apologized, noting she was unaware of that.)

Ms. Bettcher indicated that, as she has stated, she is very much in favor of the licensing law for Montana, noting she feels it would do nothing but benefit the citizens, and that, somewhere down the road, she would like the national registry to be required in all states. She indicated that, if someone has gone through formal training for radiation therapy, they have taken the exam and, if the state requires the exam, that overrides the exam. She noted she feels that they should institute a law of this nature, but this law, she feels, is written incorrectly, and she thinks there are some points that are very questionable, and which may cause problems, down the road. She added she thinks it should be reviewed by the doctors and therapists who it will directly affect but, other than that, she is very much in favor of it.

Questions From Committee Members:

- Q. Senator Bengtson asked who were the participants in developing this legislation, since it was suggested there was not enough review.
- A. Ms. Munoz responded there was an ad hoc committee assigned by the Montana State Society of Radiological Technologists, to work in conjunction with the board of rad techs, in developing a bill for this. She reported that, in the process of writing this bill, noting they started 2 years ago, she contacted Tom Traxler, in Billings, who was talking with his techs, and she was talking with her 5 technologists. She indicated that, at the time, Missoula was in-between chief technologists, and had one person who was in favor of the bill, at the time, and that Kalispell had another person, who used to



SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 9 of 57

be at Missoula, and who was in favor of what they were doing. She reported the person who was in Kalispell has since gone to Butte, but, at the time, Butte did not have anyone, that they had a temporary technologist who was working until they could get someone. She indicated the bill went into the legislative committee, or the council, to be drafted some time in June or July, that it came out to them somewhere around October, and they have spread it around since then, noting it has not been just one person, that, basically, there were about 12 or 13 people in the state who were talked to. She noted there were 3 or 4 of them who were really passing letters back and forth, and the bill back and forth, and making comments.

- Q. Senator Bengtson asked if she thinks it would be to their advantage to circulate this bill to a wider group of people, have a forum, and come up with a larger consensus.
- A. Ms. Munoz asked Mr. Traxler how many people he has. Upon his response there are 8 of them, Ms. Munoz reported she has 6, which is 14 people, right there. She indicated that Ms. Bettcher has just recently come to Missoula, noting she understands this would be a shock to her, but that this has been 2 years in the process. She stated that physicians were not really talked to, other than she talked to her physicians, to tell them what was going on, and asked their comments about it. She indicated she does not know if Mr. Traxler talked to his people, but reported that Dr. Gene Hughes, from Butte, read this over for the Montana Medical Association, and, with the two changes she mentioned in her testimony, he thought it was a good bill, and thought they should go ahead with it. She indicated she feels they have had input, that maybe it was not as formal as they do in other places, but noted it definitely was not one-person.
- Q. Senator Bengtson asked who serves on the board of radiological technologists.
- A. Ms. Angland responded there are 7 members, there are radiologists, an M.D. of whatever specialty, and a general practitioner. She further indicated there are 2 registered technologists, a citizens advocate, a licensed permit holder, who is a person who has not gone through formal training, 2 years, or a college degree. Ms. Angland then corrected her statement, and indicated there are 3 registered technologists. She stated that, under their rules, they feel they do not have to change

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 10 of 57

the law to do this, that, under their rules, one of those 3 will be a radiation therapist, if this bill passes.

- Q. Senator Bengtson asked who constructs the tests, noting they will have to be giving exams for these 3 different areas in x-ray technology, and asked if they have different examinations for each one of them, and who puts the tests together.
- A. Ms. Angland responded that radiologic technologists who have gone to school take a national test at the American registry, and the State of Montana accepts that test, that they do not give separate tests to people who have gone through formal training. She reported they have limited permit holders, in this state, who are people in small towns, in doctor's offices, and who have had, in the past, no formal training. She indicated that, when the licensure bill went through, in 1978, it stated that these people would have to have instruction, 40 hours of general instruction, and another 40 for, like skull x-rays, and different parts of the body. She indicated those people would have to take this course, that the board of radiologic technologists would make up a state test, and those people would come in and take the test. If they pass the test, they are issued a permit, which is renewed every year. She noted that, for therapy technologists, as Ms. Munoz was talking about, the state will accept their national registry, their national test, that the board would not have a state test, which is what Ms. Munoz would like to see.
- Q. Senator Bengtson indicated she can understand the limited permit, but asked if the ones that take x-rays of elbows, and the ones that do the nuclear therapy, etc., all take the national test, and asked how they determine which area they are licensed in.
- A. Ms. Angland responded that, if they are going to school to be a radiologic technologist, and take the national exam, they can not do therapy, with the new kinds of machines they have now. Mr. Traxler stated it is a separate examination, and Ms. Angland reiterated it is a totally separate specialty, noting that, in the old law, as it stands now, there are terms that say "therapeutic x-rays", which is the gray area that Ms. Munoz was talking about. She noted she is an x-ray technician, and she does not do radiation therapy, or any kind of therapeutic radiation, that she simply take bones and stomachs, and things like that.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 11 of 57

Ms. Bettcher stated, except that this bill is saying x-ray techs trained in x-ray can work in the field of radiation therapy at the present time, because there is no licensing requirement. She indicated that, now, they have a therapy license with no formal training.

Ms. Angland indicated she would let Ms. Munoz speak to that.

Ms. Munoz stated they had a real hard time with that. She indicated it is very difficult to decide, that it costs a lot of money for the state to give the tests. She reported the general opinion was that, if somebody has worked for 5 years, full-time, under a registered radiation therapy technologist, and a physician, board certified in radiation therapy, they felt they would be qualified to deliver radiation therapy. She indicated she raised the question about giving an exam to these people, and reported that, in the State of Illinois, they worked 7 years on a licensure bill, which they almost got that passed, but the x-ray technologists who had been working 5, 10 and 15 years in the field, raised a big fuss, lobbied, and changed it. She indicated that, if they could not get it passed in a state like that, she did not think, for the one or two people it would affect in the State of Montana, or the 3 or 4 people, it was worth that fight, and the money, that the board would have to go through.

Ms. Munoz stated there has to be some judgement call on the part of the institutions hiring these people, and allowing them to work. She indicated that, if somebody has been working for 5 years within the field, already, who is still being paid by the hospital to perform that job, they must be doing an adequate job to fill the need of that hospital, because the hospital has liability issues they are dealing with. She noted that, if they had someone who did not know what they are doing, they would know that fairly quickly, and would have lawsuits, because of the damage done. She indicated they felt there were enough built-in checks and balances, noting she would like to see a test, but did not think, based on her previous experience with licensure bills, that it was going to fly in this state. She stated she would like to see continuing education, making sure that people have a certain number of hours of continuing education in the field but, in a state like Montana, that is very difficult. She reported that, in Chicago, they had

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 12 of 57

meetings once a month, and it was very easy to get continuing ed, but noted it is very expensive, here, and they did not want to get into that whole ball of wax, that they felt they had to leave some judgement calls to the institutions.

Q. Senator Bengtson asked why it is very costly to have these additional tests.

A. Ms. Munoz responded it is to make up another exam, or to even use the national registry exam, and the guidelines. She indicated a lot of states use the ART registry exam.

Q. Senator Bengtson asked what is so costly about that.

A. Ms. Munoz responded they have to contract with the registry, in order to give the exam, and it costs money for that.

Ms. Bettcher indicated the applicants would be paying a fee to take the exam. Ms. Munoz responded that is right, which is another cost.

Q. Senator Bengtson asked what kind of fees they are talking about.

A. Ms. Munoz responded that it varies from state to state, depending on the contract that is made up with the registry.

Q. Senator Vaughn pointed out that they questioned the certification by the American college of radiology, that they do not do the certifying, and asked if that should be amended.

A. Ms. Munoz responded that was another one. Ms. Angland indicated it was in the first bill, and got lost. Ms. Munoz indicated the American board was in, noting she has the original one that went to the legislative council, and the board was in both of those places. She indicated they read these so many times, they started getting blind, but board was in both of those.

Q. Senator Vaughn asked if these radiation therapy technologists are not now certified or licensed.

A. Ms. Munoz responded they are certified only to deliver x-rays in this state, that they are certified to deliver cobalt beam, and not certified to deliver electron beam

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 13 of 57

treatments, which can be as damaging as the x-rays that they do.

Q. Senator Vaughn asked if they are using some of those methods.

A. Ms. Munoz responded yes, they are, noting that somebody with no experience, not even an x-ray technologists, can deliver electron beam or cobalt beam therapy, according to the way the original bill is written. She added that is what got her hot, when she first came to the state.

Q. Senator Vaughn asked if there is liability, in those cases, if they are allowing them to do that.

A. Ms. Munoz responded yes, but that, luckily, the hospitals have been saying they want x-ray techs with experience, or they want registered therapy techs, noting they have been pretty lucky, in this state.

Q. Senator Bengtson asked, if they are not licensed in those fields, do they have to depend on their hospital or the doctors.

A. Ms. Munoz responded that is right.

Q. Senator Bengtson asked if there have been abuses in this state.

A. Ms. Munoz responded not that she knows of, indicating she would think, if the doctor was going to be hit with a malpractice suit, because of damages his technologist has caused, because of misdirection, or not treating correctly, she would think that physician would want to get rid of that technologist, right away.

Q. Senator Bengtson asked, when they become licensed, if it is possible for them to have a free-standing clinic of their own, to move out of the hospital, and be eligible for third-party payments. She further asked what other benefit to their profession do they see, other than protecting the public.

A. Ms. Munoz responded this is a public safety issue, that she does not see any other benefits to this. She reported it has not been shown, by other licensure bills, that, if they have a license, they will be able to increase their salaries, noting there have been multiple studies done in regards to that, and the ones she has

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 14 of 57

seen have not shown that. She stated it is basically a public safety issue, that is all it is, and that it is to clear up those gray areas in the present bill.

- Q. Senator Harding asked if they should amend this bill to include board certified, noting that Ms. McClure knows where that would go in.
- A. Ms. McClure asked if she is talking about the American college of radiology.
- Q. Senator Hofman asked Representative Harper, if this bill falls under the sunrise requirement, if their group is prepared to pay the \$6,500, and have they done the preliminary work that has to be done before they can submit this application.
- A. Representative Harper responded that, if this technically falls under sunrise provisions, the way he understands it is that this request has to be submitted 180 days before the first day of the session, to the legislative auditor, with the \$6,500, noting that there is no way to go back and retroactively meet the requirements. He indicated that, at this point, to get it out from under the sunrise provisions, instead of licensing the individual, they would like to license the facility, the clinic or hospital, at least in this interim period, until these people can decide if there is a better route. He indicated that, apparently, it would be an extension of what is already being done, that the controls they have in the state are through the careful oversight that these people have given to it. He stated that his request to the committee would be that they give him a chance to prepare those amendments, because it is his opinion this bill can not pass, unless it is removed from sunrise.
- Q. Senator Hofman stated he thinks Representative Harper is correct, and reported that, historically, during this session, bills have been submitted which had a sunrise restriction, and did not fly, that the Rules Committee refused to go along with them, noting he agrees with that. Senator Hofman then asked Representative Harper, if this bill does not pass, and they do not get all of this done, what would be the result, down the road. He indicated he is sure the whole medical field is not going to lie down, and this will just not happen anymore, and asked if it is a real serious thing.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 15 of 57

- A. Representative Harper responded he thinks it could be a serious thing. He indicated they judge serious things according to what kind of incidences are reported that happen. He stated that, if there is one incidence that this happens, all of a sudden, this gets to be a serious thing and, in his opinion, with the limited amount he knows, it is probably going to happen, even though the institutions, themselves, will be careful about it. He added it just makes sense to him, and that is why he is carrying the bill.

Representative Harper stated he thinks he is qualified to speak, that he has probably had as many rads, or x-rays pass through his body as everybody in this room, put together, with the exception of the x-ray people, noting he started to study into all the dangers, and all of the things a person is really not told when they are sitting in the dentist's chair. He added it is spooky, it is scary, and they are just starting to find out, that they do not know how the minimal levels of radiation affect people, and this is a new area that should be paid legislative attention to in Montana. He indicated that, if they can not get the amendments which will conform this bill to the way it needs to be, they will have to rely on these people's good judgement, noting he is not fearful of that, but he thinks it is a problem that the legislature needs to look at.

- Q. Senator Hofman asked Representative Harper if he would be willing to sit down, and visit with Ms. Bettcher and the other people regarding their concerns, work with them to alleviate their concerns, and put together something that meets their problems. He indicated he agrees with Representative Harper and, if he can get that done, he would be in support of this bill.

- A. Representative Harper responded that he would try to make every effort in that regard. He indicated he thinks that is the way to handle problems like this, noting he is bringing another bill that is a mechanism type of thing, adding he is sure willing to talk further on this bill.

Mr. Traxler asked permission to address that issue. He stated that he thinks Ms. Bettcher's concerns are real that, if they were not, she would not be here today. He indicated that, however, he would like the committee to understand that they have one opponent to the bill, that there are no physicians here, and there are no other technologists. He stated that, if spending a con-

siderable amount of time with Ms. Bettcher is going to put their bill in jeopardy, then he has a problem with that.

Ms. Bettcher responded that there are technologists who are not present because they can not get away from work. She stated the doctors, whom she talked to, and the president of St. Patrick Hospital has written a letter to Senator Farrell expressing his concern.

Mr. Traxler stated that today is the hearing, and he is here, noting he is not here because he has a lot of time, that he is as busy as everyone else, but he felt this was important enough to be here, which is why he is here.

Q. Senator Bengtson asked if there is any way this group of people can be accommodated, and if there is something they can do, and that the committee can do, to alleviate the problems.

A. Mr. Traxler responded that he could wait until the sunrise issue is resolved, and, if they want to make changes at the same time, he guesses they could work them all in together, working with Representative Harper.

Ms. Angland indicated that, when the radiation therapists came to the licensure board, they asked the Department of Commerce attorney to look into it, and to ask if they would have some problems with the sunrise bill. She reported they said they did not think so, and to go ahead, noting that, when the bill got to the Legislative Council, for review, they heard there was a problem. She asked why, as a board, did they walk into this committee hearing, today, and find out they have a problem under the sunrise bill, and why was that not addressed earlier.

Chairman Farrell reported that, when this bill came in at the beginning of the Legislature, they knew there was a problem with sunrise. He indicated the auditors sent him a list of bills which had already been introduced, and he thinks Representative Harper was advised of that, at the time.

Ms. Angland responded they were advised, and asked, from there, what could they have done. Chairman Farrell responded that the only reason the bill proceeded as far as it did was because there was a bill in, by Senator Rasmussen, to strip sunrise out of the statute, and the Senate refused to do that.



Ms. Angland thanked Chairman Farrell, indicating that was her question. Chairman Farrell added that, at the point when the Senate spoke on the sunrise provision, that is when this bill became very endangered.

Senator Vaughn asked Chairman Farrell if there is any other group that this could be licensed under, without having to go under the sunrise provisions. Chairman Farrell responded this is simply a licensure bill, which is the determination he got. A gentleman in the room stated that, any time another group is added to even an existing board, it will fall under sunrise. Chairman Farrell pointed out that there has been a revision of the sunrise bill sent over to the House. Representative Harper indicated that bill exempts federally mandated programs that involved licensure, and Chairman Farrell noted there is another bill coming over, but indicated it would not help in this session.

Representative Harper reported that a letter of March 21, 1988, from the auditor, indicated that this bill would not be subject to sunrise. He noted that is why these people, he thinks, are justified in saying they did not know they had to go through it. He pointed out that, when the bill actually came out, the actual wording of the bill put them in, and he got a letter the 1st or 2nd of February saying it is under sunrise. He stated it is really not their fault. Chairman Farrell reported there have been 14 other bills in here, and 3 other groups said the same thing, but the actual legislation, when written, was determined to be under sunrise.

Closing by Sponsor:

Representative Harper stated he closes.

Mr. Traxler asked permission to make a comment. He stated there are very few of them in the state, noting there are something like 20, and, to put together a separate entity to license them, would tax them more than they could handle.

HEARING ON HB 148

Presentation and Opening Statement by Sponsor:

Representative Hal Harper stated that HB148 is a mechanism which he thinks is long overdue in this legislature. He indicated it is a mechanism to handle some of the stickiest, thorniest problems that they deal with every session of the

legislature, which is local government problems. He noted he does not know how many times they have sent warring local governments factions out of the committee rooms, asking them to get their act together, and come back. He indicated the committee members may remember a local government study effort in the 70's, that there was a local government study commission, which was a state-wide commission, funded with all kinds of money, and all kinds of people. He reported they introduced HB122 which was about this thick (he demonstrated the thickness), and which was going to solve all the problems the legislature had with local governments. He indicated they brought the bill in, in a wheelbarrow, and the committee looked at it, and said it was too much. He stated that, as a result, every session, they handle local government problems, noting that, in his opinion, they handle many that they should not, but the fact is, they rejected that offer to get them out from under that burden, and are going to keep handling those little day-to-day problems, up to the big problems.

Representative Harper stated that HB148 will create a Montana advisory commission on inter-governmental relations, which will be a 20 member commission with 3 non-voting members, and their job will be to talk about these problems, formulate research, and coordinate different programs at the county level. He reported he has a copy of a legislative audit report which says that one major problem in this state is in the area of collection of revenues for the state, noting the counties do the collection of revenues, and indicated one of the auditor's recommendations was that an advisory commission be formulated on this particular problem, adding that this is one of the things this particular commission would do.

Representative Harper reported he was introduced to this concept, first, when he was invited to address a meeting of county commissioners and, somewhere during the course of the conversation, he asked how many commissioners think legislators understand their problems, noting he thought maybe half of them would raise their hand. He indicated he does not remember one hand going up in the room, that it shocked him, and he knows those people really believe that, they really believe that we, as legislators, do not fully understand their problems. He noted they were not doing that to be spiteful, that they truly believed we did not have that point of view. He stated he thinks we have a little better insight than that, but the apparent gap remains, and they do not think it is narrow. He indicated, if we had a body like this, that could work over recommendations before they get to the legislature, we would have a much better chance of having clean legisla-

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 19 of 57

tion. Representative Harper noted that, during the last few years, there has been more than 25% of federal money coming to the state, to be filtered in to the local governments. He indicated we are facing financial problems, and they are facing financial problems, maybe worse than we, this session, and this kind of mechanism is going to be extremely helpful in allocating scarce resources. He stated this does not cost the state any money, noting there may be opposition to that statement, but pointed out that the fiscal note indicates they anticipate this commission being able to accept grants and gifts, and contracts, being able to accept and spend that money. He indicated that is what this bill does, noting there are approximately 28 other states that have this kind of mechanism, and there are at least a dozen others considering it. He stated they have found, through research, that the most effective of these mechanisms comes from legislative creation, which is what this one will do. He indicated these committees average 22 members, that this one is 20 plus the 3 advisory members, that they range from \$5,000 in expenditures, in South Dakota, to \$1 million in Illinois, and added that they want to promulgate this group, appoint this group, in a balanced manner, noting the committee can look over pages 1 and 2 to see who is going to be on this board. He stated they want satisfaction, and they want to see if this thing works, adding that he, frankly, does not see how it can help but work, that he does not see how it can help but clarify legislation, frame the issues, and move local governments from being in the position of the step-child, that we seem to view them right now, and raising their problems to the awareness that they need on the state level.

List of Testifying Proponents and What Group they Represent:

Alec Hanson, Montana League of Cities and Towns  
Ken Weaver, Professor of Political Science, Montana State University  
Gordon Morris, Executive Director, Association of Counties  
Grace Edwards, Yellowstone County Commissioner  
Carrol Krause, Commissioner of Higher Education

Testimony:

Mr. Hanson stated they support HB148. He indicated he thinks the reason they support HB148 is that they realize this is a way to focus public attention on some of the problems in local government. He stated that, obviously, finances is a big issue, but there are a lot of other things in local government that need to be looked at. He noted that Senators Vaughn and Harding, who serve on the Local Government Committee, know

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 20 of 57

that, this session, they have been in that committee almost every day, with one little bill or another, to try to fix up some problem, or correct some deficiency in state law. He stated he thinks what they really need is not a series of little corrections, but they need to look at Title 7. He indicated he thinks they need to go through that, and take a comprehensive approach to remedying all of the little contradictions and inconsistencies in that title, and that this is one place where that could happen, through this proposed advisory commission. He indicated this advisory commission could sit down, and go through Title 7, on the county and municipal side, and put together one bill, a comprehensive look at those laws, and recommend one solution. He noted they are not talking about controversial issues, that they are talking about the day-to-day operation and management of local government. He indicated that, by doing that, it would eliminate the need for him, Mr. Morris, and a lot of other people to come to the local government committees, almost every day, during the legislature, with one little bill to correct one little problem, noting he thinks this would make government a hell of a lot more efficient in Montana.

Mr. Hanson stated he has talked with Senator Thayer about this idea, who thinks this is the way to go. He stated there are no sinister motives in this bill, that they are not looking at this as some kind of lobbying organization, that, essentially, it will be devoted to research. He noted that, if it were a lobbying organization, he would not support it, that he does not want someone coming in and taking his job. He indicated they are looking at some place where they can sit down with members of the legislature, look at some issues, come up with some workable solutions, get the answers put together, and bring them to the legislature, which will make the whole operation much more efficient. He stated that is why they support this concept, why they support the bill, and indicated he hopes the committee would concur.

Mr. Hanson indicated he has to leave because he has another bill up in another committee, and indicated, if there are some questions, he will catch up with them later.

Testimony:

Mr. Weaver indicated he would like to make some factual comments about his research on ACIRs nationally, and how that might relate to this proposed legislation. He added that he would like to make a few comments on the local government center at Montana State University, which is proposing to play a role, in conjunction with the university system, in pro-

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 21 of 57

viding research support for such a body. He indicated he would also like to give the committee a few impressions of what he has seen in the last 5 years that they have been doing service outreach work from Montana State University in local government.

Mr. Weaver stated that, as Representative Harper said, there are 28 national ACIRs, right now, which came out of the original charter of the national ACIR in Congress, back in the late 50's. He reported they grew rather slowly, pretty much for the reasons that this legislation is here, apparently, due to communication gaps between, particularly, rural governments, not so much the big governments, including in Montana. He noted he does not know that this bill will solve a lot of problems for Missoula or Billings, but for the rural county municipal governments that, apparently, this is where it has been needed nationally. He stated that perhaps the most effective of these have been those created by legislatures, rather than the executive branch, or rather than just a super-lobbying organization. He indicated that, those which have legislative intent behind them to establish communication between local legislatures and the county commissions and city councils, and state legislatures, apparently can make a difference, adding that Tennessee is notable in this regard, and their university has also been substantially involved.

Mr. Weaver reported that some have included school representation, others have not, but he can not provide much expert testimony in that regard, noting it seems to him, however, to incorporate the problems of administration, funding, and the like, is probably more than such an organization, at least at this time, could take on and, therefore, when the legislation was drafted, that was discussed and the preliminary decision was made to not include it, as others have.

Mr. Weaver stated that Washington has a fairly well-developed ACIR, again coming out of a legislative agreement, as does Utah, as well. He indicated Colorado had one, but that it waned, noting it was created in the executive branch, and floundered, but that there is now an effort to try to get it going again. He reported that South Dakota has one, and Arizona is just getting started, and noted that 3 brand new ones are trying to get up and running for exactly the same reasons that this legislation was proposed, that there are tough times in the rural counties, with federal revenue sharing, tightened tax bases, tight revenues at the state level, and communications problems. He added that, frequently, states encounter the situation, apparently, where there are multiple local government associations of counties,

leagues, associations of assessors, clerks and recorders, firemen, policemen, all coming to the local government committee, frequently never having had a chance to talk to themselves, let alone their legislators, and noted that it is not surprising to him that Title 7 got in the shape it is in, nor that HB122 failed.

Mr. Weaver reported that the local government center at the university, and he personally, stand prepared to respond to the need, in writing, for any background or research on this issue which would be helpful to the committee. He noted that, if they have any, please contact him, and they will respond, within 24 hours, to whatever question the committee may have. He noted that seemed to be of some help to the House Local Government Committee.

Mr. Weaver indicated the local government center, the committee will note, is specifically identified in the proposed legislation as a research coordinating arm, and noted that, originally, when he crafted that language, as he did the bill before it went to the legislative council, it came out of two things. He reported the local government center, first of all, is a program at Montana State University which came out of the political science department during the last local government review process, in 1984-1986, when there was no money to support assistance for local governments appropriated by the state legislature. He indicated a group of his colleagues and he decided that was a proper service function for the university to play, noting that, in the political science department, they teach public administration, local government and the like, and they should be out there trying to do some help, if they can. He indicated they did work for 2 to 3 years, on an unfunded basis, strictly a personal service outreach effort, and that they learned a couple of things in those 2 years. He noted one is an overwhelming need for training, particularly on budget, on simple personnel management questions, organization, computer application. He indicated they had the talent, in the university system. He added that he would like to say, with a good deal of pride, they have professors who are willing to get out and get their hands dirty, without consulting fees, and to get in a staff car or state car, and drive up to Wolf Point or Libby, to see if they could be of some help. He reported that worked, that there was a need, and they moved on to offering professional training, which is going on right now at MSU. He indicated they have municipal clerks, mayors, council members, on a cost recovery basis, noting there is not a dime of appropriated money in it, that they have been doing it for 4 or 5 years, and think they should continue to do it.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 23 of 57

Mr. Weaver stated that what is missing in all of this is research. He reported that, as a consequence of this bill, he has drafted a \$200,000 grant proposal, which he believes has an excellent chance of being funded, to provide the basic research necessary to find out about whether it is advantageous or disadvantageous to consolidate county jails in the rural counties, noting that is where the problem is, or how they might fund intra-structure renewal, or water system renewal, noting they know the systems are coming apart, and how are they going to pay for them. He stated they need some focus on that, but that this legislation, from his point of view, does two things. He indicated that it provides a consulting mechanism between the citizen volunteers, who serve the local and state legislature, without staffs, and without professional budgeters or personnel managers, more often than not. He indicated that, secondly, with the participation of the university system, they can get people playing with the same deck of cards, which is to say the same set of facts about what is the critter like, out there, noting it seems to him that is a proper function for a land-grant university to play. He added that, quite frankly, he is real pleased with his president, who has said "Get in there, and do the public service. This is a land-grant outreach organization, and we want to be involved in local government."

Mr. Weaver reported that he has knocked around almost all of the municipal governments, and most of the county governments in Montana, that he has worked with 983 municipal and county officials, in the past year alone, and ran a workshop with 453 of them, at virtually no cost, and certainly no taxpayer cost. He indicated that he has a couple of corrections he would like to share, as an academic, ivory tower guy, who likes local government, noting that is where we are governed, and that, if we can't do it at the local level, this country is in trouble. He stated he thinks we can do it at the local government, because he knows a clerk, in a small town, who goes out and cleans the johns on the softball field as part of her job. He added that he knows the mayor, in White Sulphur Springs, Montana, Bud Lang, gets on the end of a shovel, and spreads asphalt to fill in the pot holes in the spring. He further indicated a clerk and recorder in Musselshell County is doing the books by pencil and a manual calculator, because they can't afford a word processing machine, or the simplest kinds of calculators. Mr. Weaver addressed the committee stating, "Ladies and gentlemen, what I am telling you is this, in my professional opinion, local government works in this state, because the people in it give a damn." He indicated it is not because they are over paid,

and not because they have their hand in the public coffers, noting there is no graft, no corruption, that it is just not there. He added that what is there are citizen volunteers who care, who are responsive to a taxpaying constituency, and who want very little from their local government, noting they want low taxes, they want honesty, and they want to be able to talk to the county commissioner, or talk to the clerk, on a personal basis. He stated he believes this bill will make a significant difference in keeping that kind of government alive and well in Montana.

Mr. Weaver indicated he stands ready for the committee's questions, and reminded them that he would respond immediately, in writing, for any research requirements.

Testimony:

Mr. Morris indicated he will try to be brief, noting he thinks there are a couple of things the committee needs to know about HB148. He reported it is a product of a process that began in November, 1987, and that, in November of 1987, MACO hosted a meeting of legislative leaders and community leaders from all over the state. He indicated that, unfortunately, he can not say it included anyone on this particular committee, but noted that invitations were extended to several people who are on this committee, and they know which of them were invited.

Mr. Morris reported that, as a result, they met throughout the entire interim, and HB148 is the result of those meetings. He indicated the initial meeting was called primarily as a result of the recognition by the National Conference of State Legislators that there was something wrong, something wrong in the entire country, because they recommended that the partnership, which should be there between state and local governments, was absent. He noted that, as a result, they recommended that the legislatures, across the country, take a look at establishing a state counterpart to the advisory commission on intergovernmental relations which exists at the federal level. He stated that, as a consequence, they have taken the marching orders, in this regard, as the need to establish a full working partnership between the legislature, on one hand, and local government officials on the other, so that they are partners, and are not looked at as opponents in the process of determining and rendering good government for the entire State of Montana. He reported that process ended with the bill the committee has before them.

Mr. Morris then indicated he would like to share with the committee members some favorable press they got, noting it is



SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 25 of 57

not very often that they get favorable press. He distributed copies of newspaper items to the committee members, copies of which are attached as Exhibits 3 and 4. Mr. Morris pointed out that, in the editorial from the Helena Independent Record, the thing to note are the opening sentences. He then read the sentences, which state "Historically, the Legislature has treated local taxing entities -- counties, cities and schools -- just like any other special interest group instead of partners in delivering necessary public services."

Mr. Morris stated we are your partners, we are not the tavern association, and we are not any other special interest group requesting that our particular ox be fed, or be given any different treatment from their ox, over there; we are your partners, we do not come in supporting bad government legislation. He indicated he thinks that is highlighted, in terms of the IR editorial, in regard to an idea whose time has come. He stated the second opinion is the one that appeared in the Billings Gazette, and noted the committee can see they will get some good press out of this, if this bill is passed. He quoted the closing comment in that editorial, which states "The move", noting that is the move towards the creation of an advisory commission on intergovernmental relations in Montana, "has great promise. For too long, the state has been balancing its problems on the shoulders of local government, while denying local government the control it needs to deal with those problems. The commission would bring the Legislature together with local government to ensure that residents' needs take precedence over political expediency. That's a step in the right direction." He noted he thinks everybody can agree on that.

Mr. Morris indicated he would answer or respond to any questions the committee might have in regard to this good government legislative proposal which they have before them. He noted that Dr. Weaver provided him with some material to hand out at this time, which he thinks purports to answer every question they may ever have on ACIRs. He distributed the materials to the committee members, a copy of which is attached as Exhibit 5.

Testimony:

Ms. Edwards reported that she got into politics, and decided to run for commissioner, through the League of Women Voters where, as the committee knows, they study issues at federal, state and local levels. She indicated it was at the local level study where she really became extremely interested in local government, because it really is a grass roots govern-

ment, that they are in contact with their constituents, every day, who have no hesitation about telling them what is on their mind, whether it be good or bad. She noted she does get some good calls, although she mainly hears from the ones who are dissatisfied.

Ms. Edwards stated that, to her, the advantages for the ACIR are that it would give them a relationship with the state, kind of an official status, and would indicate that local governments truly are taken seriously by the state. She further stated that she thinks it could avoid a lot of problems that they get into, when they come up and talk to the legislators, when the legislature is in session, and also in talking to the executive, and in talking to each other. She stated she thinks it would encourage cooperation, and communication, and that she thinks it would eliminate a great deal of misunderstanding, and remove a great deal of suspicion. She noted she has heard people, on the local level, say "What do you suppose the legislature is going to do to us this time?", and she has heard legislators say "What do you suppose they are going to come and ask for this time?" She indicated she thinks they could simply talk through those situations, and get a much better feeling of what the legislators see, from their perspective and purview, on state matters, and what local government sees, when they are down there working through and implementing the state laws. She noted she thinks it would be a very positive kind of communication, and that they truly would be on more of a partnership basis. She stated they want to help the legislators, and they want to do good things for the state, and noted that, simply because they are county commissioners does not mean they are just looking out for their own end. She indicated they want to do things for the state, too, and added that she is sure this is true of other local governments.

Ms. Edwards indicated that Mr. Morris, Mr. Weaver and Mr. Hanson really said it all, and she can not match Mr. Weaver's eloquence.

Testimony:

Mr. Krause stated he certainly wants to support the bill, that he is not going to go into all the details, and all the reasons the sponsors have given the committee, but indicated he has one concern about the bill that he would like to call to the committee's attention. He referred the committee to page 5, pointing out that the page starts out indicating that the primary research arm of the commission is the Montana university system. He noted that he certainly wants to lend

support of the entire system to the research efforts, and he thinks that is part of their responsibilities as a public service. He indicated the balance states "The research director is the director of the local government center in Bozeman, whose duties include coordinating the commission's research and disseminating research findings." Mr. Krause stated what bothers him about that section is, first of all, at this point, there is not an authorized local government center at Montana State University. He indicated they have requested authorization, at this board meeting, which will be acted upon in the couple of months. He stated he thinks, more importantly than that, he would really raise the question as to whether or not the legislature should identify the executive director or the research director in legislation, noting he would assume that would be more appropriately a responsibility of the advisory commission, itself, to select that director. He indicated that it could, in fact, be the director of the local government center, and he would certainly hope that Ken Weaver would be involved, noting he does not want, in any way, to deflect upon that, but pointed out that they may want someone else, they want the political science department person at Eastern Montana College, or wherever. He stated he thinks it is unfortunate that the legislature would put into law who that director would be, because there may be a real conflict between that individual, down the road, and the advisory board, and indicated he would simply ask the committee to consider the possibility. He noted he does not think it weakens the bill, in any way, that, in fact, he thinks it makes it a better bill, if they would strike, beginning on line 4, starting with the word "commission" to the end of that section. He noted he does not want it to, in any way, reflect negatively on this bill, or that he does not support it, indicating he thinks it is something the university system should be involved in, but stated that he does not believe that the identification of the director, that the advisory board should be saddled with that specific person who holds that position.

Mr. Krause announced that he has to be in another meeting, and indicated Mr. Don Hobbe, his Deputy Commissioner, will be available for questions.

List of Testifying Opponents and What Group They Represent:

Vera Cahoon, Missoula County Freeholders Association

Testimony:

Ms. Cahoon's written testimony is attached as Exhibit 6. She referred to a graph, which was contained in a report entitled ACIR: The Year in Review, 29th Annual Report of the Advisory Commission on Intergovernmental Relations, Washington, D.C. A copy of the graph referred to is attached as Exhibit 7, and a copy of the report is attached as Exhibit 9.

Questions From Committee Members:

- Q. Senator Harding referred to Mr. Krause's comments about designating the system, and asked Mr. Weaver, even though he had sold her, what he thinks about not designating.
- A. Mr. Weaver responded he is not sure he is competent to respond in an authoritative way, noting he certainly has great regard for the Commissioner's view on that. He indicated, on the other hand, his feeling is that the local government center, a program of the political science department, which is pending the regents' approval, is prepared, as a consequence of its demonstrated service effort over the last 4 years, to perform this function. He stated they will continue to work with local government, that they will continue to do training, and they will be there. He pointed out that there is no other entity within the university system, that he is aware of, which is directly able, and committed to local government service. He indicated he would be a little concerned that it would fall through the crack, noting he is always conscious of the turf problems that sometimes crop up between campuses. He reported that, in this case, he went to great lengths to coordinate that language, and that, as a matter of fact, he and his friend and colleague, Jim Lopach, whom he regards as the foremost expert in local government in Montana, and who was the former chairman of his department, coordinated very closely on that language. He indicated they agreed the research should be in the university system, and they also agreed there needed to be a center, a main location, where there is somebody who would, in fact, write the grants, and somebody who would administer, through the grants and contracts administrator, the accounting for grants and contracts. He reported that MSU, and the local government center, stepped forward, and said, if the legislature is willing to proceed, they are going to do their part, working with the other units of the system. Mr. Weaver again stated, however, he has considerable regard for the Commissioner's feelings.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 29 of 57

- Q. Senator Vaughn asked Mr. Morris, after working with HB122, if he thinks they learned enough from that, and with the research they can get now, does he think they really could accomplish what is needed, through this. She noted she thinks they did a lot of good, in that bill, but it just could not all be accepted by everybody. She indicated they still would have a lot of problems, and again asked if Mr. Morris thinks they could accomplish a lot, now, more than they would have before.
- A. Mr. Morris responded he is very familiar with HB122, that he has reviewed it, on many occasions, looking for insights, and fresh ideas. He indicated this bill, to some extent, demonstrates the fact that there may very well not be anything new, under the sun. He stated he thinks, yes, that this bill, if passed, would enable them to go back, take a fresh look at some old concepts that have been kicked around, and maybe come in with a totally new perspective. He noted that, during the hearing on the bill, they were joking that they could resolve this whole problem, in terms of local governments constantly being in front of the legislature, by just simply eliminating general governmental power.
- Q. Senator Harding indicated she certainly respects the Missoula County Freeholders, and their concern about this, and asked Mr. Morris his consideration of this matter.
- A. Mr. Morris asked if Senator Harding meant relative to the MACO budget.
- Q. Senator Harding indicated she is referring to another layer of bureaucracy.
- A. Mr. Morris responded that he does not see this as being another layer of bureaucracy, that he sees this as an effort in establishing a liaison, a liaison between the legislature, as policy-makers for the State of Montana, and those local government officials who have to work in the trenches, and deliver what they legislate. He indicated it is not another layer, that it is simply communication, a liaison, so that the legislature is getting an objective perspective in terms of what the problems are, in the trenches, and that they are not looking to hear something other than objective perspectives. Mr. Morris added that also holds true for the research coordinating and disseminating, that, with the bureau, they at least have removed this from the field

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 30 of 57

of subjectivity, and there can be no question as to the relative objectivity, when it comes to assessments and conclusions.

- Q. Senator Harding indicated the Missoula Freeholders raised the question regarding this not costing anything, and pointed out that the fiscal note states "providing that funds received by the commission are statutorily appropriated to the commission, and amending section 15-7-501", noting she has not read that section. Senator Harding asked what this means.
- A. Representative Harper responded that, in order for any governmental entity to be able to expend money, they have to have expenditure authority, noting they grant that to every governmental agency. He indicated that, in some cases, noting the Department of Labor received more money from the federal government than the state allows them to expend, they are only allowed to expend X amount of money. He noted that, unless they are given that authority, they can not expend it, so all this statutory authority does is make sure that whatever money they get, they can spend. He indicated that, without that in the bill, they would have to pick out a figure, and say they could spend that much.
- Q. Senator Hofman asked Mr. Weaver about the research, and what they would be doing, and asked what the advantage is to that.
- A. Mr. Weaver responded that it seems to him one of the most important things a Montana ACIR could do would be to create an agenda of topics that desperately need the highest priority research possible. He indicated legislators, local and state, would talk together, and could say this is the research they have got to have done, if they are going to be able to deal with a particular issue. He stated he thinks the most important thing the advisory council will do, in consultation with each other, is to come up with a menu of research topics such as, as he suggested earlier, consolidation of jails, consolidation of service facilities, and police dispatching, which are stretching the counties very, very thin. Mr. Weaver indicated it seems to him that the research arm, and perhaps the research coordinator, would then have the job of focusing grant resources consistent with those research priorities.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 31 of 57

He reported that, if they receive the grant he mentioned earlier, included in that grant is block of money for matching money. He then indicated they might be able to approach MDU, or MPC, indicate they have \$10,000, and ask if they would be willing to put in \$10,000, so they can take a hard look at, for example, infra-structure requirements in Missoula County, using that combination of matching funds. He noted it would be the research director's or coordinator's primary job to focus dollars where the research priorities of the commission are.

Mr. Weaver indicated that, finally, to encourage private sector participation in that research effort, through consulting, or contracting out research that can not be done in-house, eliciting the instinctive service inclinations of research faculty to contribute, which may be aligned with their own pure research, noting that is the job, to mobile and focus on this one subject of local government needs with those research dollars. He added that the legislature has this research arm, noting he thinks it is very appropriately pointed out in the legislative council, that, in discussing this with them, they indicate they have their own research priorities set by the legislature. He indicated what this does is simply put it out there, and say they can use grant money and perhaps management funds from the public sector, private sector of the state, to focus on the issues that the advisory council wants to focus on.

- Q. Senator Bengtson asked Mr. Weaver how he will involve students in this.
- A. Mr. Weaver responded that, if the university involvement is going to make a difference in demonstrating to the legislature that an ACIR is worthwhile, it seems to him they would bring in their graduate students interested in local government, for example, in their masters of public administration program, in their engineering curriculum, or in their economic curriculum, who are interested in working on the problems of local government. He assured the committee there are many of them working with their faculty mentors. He added, then, to provide the travel bucks, or provide the computer time, or to provide the secretarial time, noting it would be a modest cost.
- Q. Senator Bengtson asked what his plans are for outreach, noting they can have all the research they want, but they are not dealing with the legislators, they are dealing

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 32 of 57

with all the people in the state, noting that, frankly, they do not know if they are ready for change.

- A. Mr. Weaver responded that he would argue that perhaps the ACIR will have to make its own judgement, noting it certainly is not the role of the university to prescribe change.
- Q. Senator Bengtson pointed out that their role is to educate.
- A. Mr. Weaver responded yes, ma'am, both on campus and off. He indicated that, at Montana State University, in their outreach training program, they trained 453 county commissioners, assessors, clerks, municipal clerks, mayors and council members. He stated they are into outreach, independently of ACIR. Mr. Weaver then indicated he is not sure he responded to the question.
- Q. Senator Bengtson indicated no, because these people, for years, have known what the changes need to be, but that there is a lot of resistance, that any change in what they have had for 100 years is difficult to accomplish, and elected officials are the worst ones to do that education. She stated that the university system, with its outreach, surely should be able to provide it, change attitudes, and prepare people for change.
- A. Mr. Weaver responded that, he would argue, is one of the principal functions of the university system. He added that, on the other hand, he believes he also sees something happening, as a result of reading the literature and participating in national conferences, that perhaps 100 university scholars, around the country, right now, are dealing with exactly the issue that Senator Bengtson raised; what is the proper role of a university in what is happening in rural America, rural revitalization, and so forth. He stated universities are not the best ones to do that job.
- Q. Senator Bengtson asked who is.
- A. Mr. Weaver responded, if it is not the legislature, and if it is not the executive branch, it is all of them. He stated that what representative government is, he believes, is to sense the will of the people, to listen to what they say, and to articulate a vision of the future, noting he believes that is what the Montana Freeholders are saying, that they want a voice in the



future of their local government. He indicated they wanted it, that is why they are here, and that is what it is about. He noted Senator Bengtson said change is hard to come by, and indicated he agrees change is hard to come by, until they are up against the blades, adding that he is afraid there are communities in this state that may not be here with us at the turn of the century because of the devastating effects of economics, and so forth. He indicated they are struggling to hold on and, when they shut down the governments, a city disincorporates, and they wipe out generations of investments in the gas station, the restaurant, and the main street business, that they are gone. He stated he does not believe the university system should sit by and watch that happen, noting he is saying that Montana State University is prepared, but they can not lead in the subject, adding that he believes that is what the ACIR is all about, to focus leadership on the problems of local government.

Mr. Weaver apologized for going on so long, but indicated Senator Bengtson is right on it, that those are the tough issues; change, and the ability of state agencies to play a part in articulating a vision of what the likely outcomes are. He indicated they have research, and are prepared to put it at the disposal of the legislature's direction.

- Q. Senator Harding stated she certainly thinks this proposal sounds marvelous, but indicated what bothers her is the list of things that local government attends, that they have access to all these meetings and, what is more, that is nothing compared to their local meetings, at the local level. She stated they are floundering, that they are trying to find their way, and, right now, Mr. Morris can tell the committee that a commissioner's job is not 8 to 5, it is 24 hours a day, and asked, with all this good information, how are those people going to have room for more volumes of information, and still be able to keep up. She asked Mr. Morris how are they going to cope with a whole bunch more added research information.
- A. Mr. Morris responded he thinks that is a good question, and suggested this does not place an additional burden on local elected officials, county commissioners or city mayors and council members. He indicated that, instead, it gives them, as much as anything, a forum with which to carry their message to the legislature and, supposedly, an objective forum made up of 4 members of the

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 34 of 57

House, 4 members of the Senate, members appointed by the Governor, local people appointed by the Governor, a valid cross-section of the State of Montana, which is going to take an objective look at the problems. He indicated commissioners are traveling all over the country, that they are going to meetings all over the country, and are coming back with ideas as to what other people in other states are doing in regard to the problems. He stated that Montana does not have problems unique to Montana, that there are problems in the country, and they do not need to be re-inventing the wheel, but yet, every time they come to the legislature, they come as opponents, instead of as partners. He stated that is what this does, it establishes a linkage, a liaison, noting there is not a commissioner in Montana who would not individually commit to participating in this process.

- Q. Senator Harding indicated that makes her want to joke, and asked Mr. Morris if he thinks all of the factions of local government are going to support this advisory board, and still not come in, in their little entities, and say their county does not agree.
- A. Mr. Morris responded that, as Mr. Hanson said, he would not be before the committee supporting this, if he thought this would simply become an extension or replacement for MACO, in terms of having to come before the legislature, and lobby, on separate individual things. He stated this is a larger issue, that they are not looking at coming in and having the ACIR study concerns of the clerk and recorders, or the treasurers, or county commissioners, per se. He indicated they will take a look at the large picture, in terms of what is in the best interest of Montana, from the perspective of a local level working in cooperation with the legislators who come to Helena for 90 days, every 2 years, and have to grapple with major policy concerns. He stated they can help the legislators, that they are here as their partners, and are here to help them in that, which is what it is all about.
- Q. Senator Bengtson indicated she does not understand where Mr. Morris gets the idea that they are not partners. She stated she does not have a sense of that, where they feel they are antagonists, or adversaries. She indicated they can sit together, in this council, and come up with the best kind of long-range suggestions for the State of Montana, and they can bring them to the legislature, noting they are all in this together, but pointed out she

is talking about the people of the state. She stated they come from districts that are not going to buy into half of what they are going to say, and that is what she is talking about, this arm that has to be out there. She indicated she can not come up here and represent her district, noting that the rest of them can not either, and they can not vote for a lot of those things, because they are representative of the people of their districts. She stated they are going about it in the wrong way, that somebody has got to do some outreach into those communities. She stated they are going to involve the same people who know the same problems that they all know, noting they need some consolidation, they need to go through the codes, and need to streamline this, adding that is nothing new, and they are not going to come up with anything new, that she can see. She stated they are going to have to go out there, the university system, the educational system, and all of us, noting elected officials are the worst ones to do it, because they can't, they are politicians, that they respond to the people, and can't be expected to represent the people, and educate them at the same time.

- A. Mr. Morris responded that this bill is critical from the standpoint that local elected officials, like Commissioner Grace Edwards from Yellowstone County, do not come before the legislature and support special interest legislation. He noted that, yet, you say we are partners; we are not. He explained that, every day, he can pick up the paper, and read where MACO, or a commissioner, or the league, is categorized with a list of other special interest groups. He stated they are not special interest, they are your partner. He indicated this bill purports to recognize that, pay homage to that fact, and get on about the concerns of good government, whether that is in Ekalaka, Billings, Libby, or Roosevelt County, because their problems are common across the State of Montana, and they need to join hands, start to work on those problems, and not be viewed as just simply coming in here representing a narrow faction of the people. Mr. Morris stated his commissioners, 165 of them, across the entire State of Montana, were elected to serve public interests and constituent interests, noting these are the same people that voted the legislators into office.
- Q. Senator Harding asked Mr. Morris, if this bill passes, does that mean the legislature will just deal with this intergovernmental advisory committee.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 36 of 57

- A. Mr. Morris responded no, that he would not foresee that happening, because he thinks the commission would take a look at some very large issues and, through its research arm, whatever that might be, begin a larger scale investigation of problems that he does not have the resources, through the association, to undertake, and there is no other entity out there that could do it. He indicated it might have 2 or 3 projects identified from the course of any particular interim, and would come back to the legislature in the succeeding session with recommendations from 2 or 3 studies.
- Q. Senator Harding noted that Senator Bengtson has said it would just be another faction, and, yet, these other people would not be totally in agreement, in local government, and pointed out that, therefore, it would be one more faction to deal with the legislature, rather than a joint effort, like the bill proposes to do.
- A. Mr. Morris responded that he thinks the best way he can answer that is to say there are an awful lot of interim committees, legislative interim committees, and the question which has not been asked yet is whether or not this is something that is already being done out there. He indicated the response to that is, no, it is not being done out there. He noted there is not an interim local government committee that is taking a two-year time period to study significant and major concerns of local governments in Montana, and that this is what this commission would do. He stated they have had some people say this is what revenue oversight does, but indicated it does not, noting they do not have an advocate to work in a partnership context, and that is what this would do, in the interim, and come in, just as a revenue oversight committee comes in, with legislation they are supporting on behalf of the entire community. He noted this group would basically do the same thing.
- Q. Senator Hofman pointed out they have been hearing a lot from Mr. Morris about the association of counties, but indicated they have not heard a whole lot about the league of cities and towns, or city governments. Senator Hofman reported that he happens to know that Mr. Weaver is very much involved in that, noting that, so far, he has spoken mostly about the university, research, and things like that. He asked Mr. Weaver to talk a little about the approach of the league of cities and towns, and

asked what is the feeling of those people in relation to this.

- A. Mr. Weaver responded that the committee is asking tough questions, and indicated he is reluctant to appear as a representative, in any way, of the Montana League of Cities and Towns. He reported this issue was brought up at their national convention, that it was discussed by their board of directors, and was discussed on the floor, indicating he thinks there were more questions than anything, and his feeling is that it emerged that here was a mechanism, primarily, where maybe county leadership and municipal leadership could work together. He noted that he recalls, a couple of sessions ago, the urban coalition went to great lengths, that the bigger cities and larger metropolitan counties worked together, and they saw that as a possible demonstration of what this might look like. He noted that he is not speaking for them, but indicated that, as an outsider, his impression is that they are probably generally supportive of it. He indicated they may have a "show me" attitude, "Let's see the research, let's see the coordination, let's see if it makes a difference in the legislature in 1989." He stated he thinks there is likely to be pretty good support for it, surprisingly, perhaps, in the rural communities. Mr. Weaver indicated he has 80 municipal officials at MSU, right now, in a workshop that he needs to get back to, and stated he will bring it up, report back to the committee, and let them know what the mayor says; that he will ask them, flat-out, if they think it is a good idea, or not, but noted he is a little reluctant.

Mr. Weaver stated that, in response to Senator Bengtson's comments regarding outreach to the local communities, through their county extension people and the university system, that the faculty are out, but indicated the leadership, he still believes, has to come from the local community, and the university system. He indicated he knows their unit, and he knows Eastern, and he knows Missoula, noting he does not know others, but Northern, certainly, doggone it, they are out there at the grass roots, and are responding to the research needs, the training needs, and the technical assistance. He stated he has worked in at least 15 communities, in the last 12 months, for 2, 3 or 4 days at a crack, working on a budget problem, or an infra-structure problem, or a personnel problem, and he sees his colleagues out there, adding that he knows Jim Lopach at Montana State Univer-

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 38 of 57

sity, and what he gave to the local governments, and his colleagues at MSU. He indicated, yes, they are involved, noting what they are saying is, would an ACIR help focus and coordinate their research and training, and like needs. He further indicated that, if it would, he believes it would be a good idea.

Q. Chairman Farrell, noting Mr. Weaver suggested there is a grant for this local government center, asked how much that grant is, or how this would be funded.

A. Mr. Weaver responded \$406,000.

Q. Chairman Farrell asked if that is an ongoing grant.

A. Mr. Weaver responded yes, that they have a \$406,000 grant, now, which they are operating on to fund the outreach efforts of the local government center, from the W.K. Kellogg Foundation, under their rural revitalization initiative, adding that it will go on for another couple of years. He noted there is a good possibility of it being extended and, in addition, they have \$400,000 in grants pending.

Q. Chairman Farrell asked, if that funding, in two years, was not there, where would the funding come from to fund this.

A. Mr. Weaver responded there are a number of possibilities, that additional grant funding would be the most likely. He added, perhaps, cost recovery from client governments, if there was a specific job done for them.

Q. Chairman Farrell asked if they would probably have to go back to public funding.

A. Mr. Weaver responded that, if the legislature decided to continue it, he supposes, without grant funding.

Q. Chairman Farrell asked Representative Harper if the 20 member commission would serve for nothing.

A. Representative Harper responded yes.

Q. Chairman Farrell asked if that is stated in the bill.

A. Representative Harper responded it does not say they would receive any compensation.

- Q. Chairman Farrell indicated there is a statute that says all boards and commission will be paid per diem.
- A. Representative Harper responded he does not believe that they receive a per diem in connection with that statute, and asked Chairman Farrell if he finds that in the bill.
- Q. Chairman Farrell responded not in the bill, but again stated there is a statute that provides for boards and commissions.
- A. Representative Harper indicated they always state "will receive compensation" pursuant to that section.
- Q. Chairman Farrell asked Representative Harper if he does not think there will be any cost there.
- A. Representative Harper responded the fiscal note says no cost to the state. He indicated whoever is designated a member has to take their lumps, noting there will be Representatives and Senators on there, which is why it becomes, basically, an interim study raised to the highest level they can.
- Q. Chairman Farrell referred to Section 8, "local government subdivisions, and any other public or private source", and asked what would another public source be.
- A. Representative Harper responded the federal government.
- Q. Chairman Farrell indicated it says the federal government, or any other public or private funding, and asked if they are talking about fire districts.
- A. Representative Harper responded it could be.
- Q. Chairman Farrell asked about sewer districts.
- A. Representative Harper responded it could be, and indicated, as one of the Senators mentioned, they are floundering in some different areas. He noted that the auditor reports that they are floundering in the area of tax collections, and recommends that they need a state-wide advisory council to coordinate tax collections, just on that one issue.
- Q. Chairman Farrell read "local government units are authorized", noting the bill says appropriate money, and

indicated someone stated it should not have been appropriated, that it should have been assessed money.

- A. Ms. Cahoon indicated that was her mistake.
- Q. Chairman Farrell asked if that would go in the tax base, or where would the appropriated money come from, and further asked if Mr. Morris has any idea what the private sources of money would be, and if he has anybody who has committed a million dollars to them.
- A. Mr. Morris responded that one of the things he could share with the committee, noting Dr. Weaver may care to comment, too, is that, during the course of the approximately 18 months that they investigated this, with the help of several of the legislative leaders, they did discuss private grant options out there. He noted they prepared a grant proposal for the Northwest Area Foundation, and indicated he would suggest that private funding could be identified by any number of grants, institutions that provide grants like this, noting that they did prepare one for the Northwest Area Foundation, and have had indications that they would look very closely at it. He added that he thinks they have an excellent chance to get some significant seed funding for it.

Dr. Weaver indicated he does not think he can improve on that, but added that the Kellogg Foundation is also interested.

- Q. Chairman Farrell asked Dr. Weaver if, nationally, he has any idea of how much private funding funds the other 28 states.
- A. Mr. Weaver responded no, but that he could submit that, in writing.
- Q. Chairman Farrell indicated he would like to have some information on private and public resources.
- A. Mr. Weaver responded he would be pleased to do that.

Closing by Sponsor:

Representative Harper indicated he did not mean to take this much of the committee's time, adding that he thinks, in the future, he will check his proposed legislation past Ms. Cahoon and Ms. Hacker before he brings it in, and further indicating he thinks Ms. Cahoon did a great job, and that he appreciates



her testimony. He stated that the Senators, the Representatives know, and local government officials know that they are floundering in many areas of this state, and he would think one of the main reasons is because they do not have this kind of mechanism to coordinate these kinds of activities, noting it is a state-wide approach they are talking about. He referred to the chart Ms. Cahoon showed the committee regarding the increase in the use of state ACIRs, and indicated he thinks it proves the fact that this is probably the most useful tool in this area, which that states find available to them in coordinating local governments. He further indicated that is why they are seeing them used, and that is why they are seeing the extra funding come in, because he thinks they really need it and, if they do not give themselves this kind of tool, he thinks they are cheating themselves, and cheating local government, that they are taking up a lot of time, just like this bill has taken the time of this committee. He stated this is a model act, that it incorporates the aspects which have worked in other states, that it won't add another layer of bureaucracy, any more than an interim study now adds another layer of bureaucracy, that it is the only method he finds which really moves us forward in a very complicated area, on complicated subjects, and that is why we have to use them, noting it will form a partnership. He asked, if the committee needs more time, if this bill is one that they are not ready to vote on right now, that the committee please hold this up, if it is something they need to inspect a little bit closer, because he thinks that this is one of the most valuable tools this legislature could give itself and local governments.

Chairman Farrell announced the hearing on HB148 as closed.

#### HEARING ON HJR 21

##### Presentation and Opening Statement by Sponsor:

Representative Jessica Stickney stated she is bringing this resolution to the committee on behalf of Representative Spaeth and herself, indicating they jointly sponsored it and, since she is presenting another resolution to the committee, she decided to present this one, as well.

She stated this is a resolution to the Senate and the House of Representative urging Congress to provide a supplemental appropriation to fully fund veterans administration medical centers at Fort Harrison and Miles City, noting, as the

committee might imagine, she has a vested interest, in that she is from Miles City and is very aware of the drastic cuts which have been made in recent months at the Miles City Medical Center. She indicated this resolution will, hopefully, lend our support of the urgency to provide extra appropriation money to bring back, to at least make better, the medical care for veterans in Montana. She reported she was at the public meeting which was held last fall, in Miles City, when the announced cuts were made, and noted it was very sad. She reported the room was full of people, from all over eastern Montana, who are used to coming to the Miles City Veterans Center, Medical Center, for their outpatient, as well as inpatient care. She indicated these are people in their 70's and 80's, who have learned to depend on this very valuable service, and that what the shortfall meant is that they just plain are without the kind of medical care they need. She stated it is their hope to bring back some of the funding for medical care.

Representative Stickney indicated it is interesting that the veterans budget, evidently, has plenty in it to build, that there is a bill in Senate House Appropriations, right now, asking for a nursing home, noting that probably has funded money to get it built, but they have let the money for the medical care go down, very drastically, and that is what this addresses.

List of Testifying Proponents and What Group they Represent:

John DenHerder, Department of Montana Disabled Veterans  
Rich Brown, Administrator, Montana Veterans Affairs Division  
Hal Manson, American Legion of Montana

Testimony:

Mr. DenHerder referred to a letter he received last night, which was sent by the Senate Veterans Affairs Committee to President Bush, and one from Alan Cranston, chairman, Veterans Affairs Committee. He indicated 14 Senators sent the letter to President Bush.

Mr. DenHerder then read several paragraphs from the letter, as follows: "The Senate Committee on Veterans Affairs held hearings on September 9th and 20th of 1988 to investigate reports of inadequate funding levels within the VA health care system. At that hearing, the VA chief medical director testified the funding for VA health care facilities for fiscal year 1989 is at least \$635 million less than was needed to operate them at the fiscal year 1988 level. This was the

first time the VA informed the Senate of this given situation." Mr. DenHerder indicated the letter to the President, in essence, says the same thing, noting he will not dwell on it, but pointed out that there were 14 Senators who signed it and sent it to the President.

Testimony:

Mr. Brown stated that, on behalf of the chairman of the board, Bob Durkee, and an unanimous vote from the Montana Board of Veterans Affairs, they wish to also endorse HJR21 as an absolute necessity, most urgently because, what the Veterans Administration has cut off, in medical care, the State of Montana must either pick up in Medicaid, or welfare benefits, and indicated they ask for the committee' concurrence.

Testimony:

Mr. Manson stated the American Legion is quite concerned about what has happened to the veterans hospitals, and the other services for the veterans, and they, therefore, very strongly support HJR21.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

Q. Senator Harding asked if they have a figure of what has been cut by the VA.

A. Mr. DenHerder responded \$637 billion or million.

Mr. Brown indicated that, working through the veterans organization, they estimate a \$1.1 billion loss in medical benefits for the year. He noted that, currently, the House Veterans Affairs Committee of the U.S. Congress has asked for \$432 million for the second half of this year, and the Senate Veterans Affairs Committee has asked for considerably more than that, noting they are talking about between \$400 and \$600 million for half a year, which is \$1 billion in a year shortfall.

Q. Chairman Farrell asked if that is for the state.

A. Mr. Brown responded no, that, for the State of Montana, they are talking over \$1 million at each of the faciliti-

es, about \$1.5 million at Fort Harrison, and just over \$1 million at Miles City.

Closing by Sponsor:

Representative Stickney urged that the committee concur in this resolution, indicating she thinks it is vitally important that we register our interest and urgency in getting this money back into health care for the veterans.

Chairman Farrell announced the hearing on HJR21 as closed.

HEARING ON HJR 28

Presentation and Opening Statement by Sponsor:

Representative Jessica Stickney stated that HJR28 urges that appointments to public boards, commissions and councils be gender-balanced, and asks that, to the greatest extent possible, efforts be made to select equal numbers of qualified men and women on appointed boards. She indicated that advisory boards have a great role in government, that they establish priorities for the spending of public money, generate ideas for the administration of public policies, and greatly influence social, educational, environmental and economic conditions. She noted she has spent the last 20 years of her life on appointed boards, at the state level, and finds this to be true. She reported there are 130, approximately, appointed boards and commissions within state government, and a total of over 1,044 persons who serve on these policy-making boards. She indicated that, of this total, only 228, currently, are women, or about 20%, and only 22 boards or commissions come even close to being gender-balanced.

Representative Stickney stated it is interesting to find the number of high-level policy boards with no women members, such as the Fish and Game Commission, the Board of Pardons, the Board of Labor Appeals, the Board of Athletics, the executive committees for the University of Montana and Eastern Montana College, the Youth Justice Council, the State Banking Board, noting the list goes on to include 31 others. She reported there are equally interesting figures to be discovered, when you consider the number of large-member boards with only one woman member, such as the Board of Natural Resources, the Board of Crime Control, the Education Advisory Council, the Board of Health and Environmental Sciences, the board of trustees for the Historical Society, the Board of Housing,

the Montana Salary Commission, the Board of Personnel Appeals, the Public Employees Retirement Board, the state Tax Appeals Board, the Teachers Retirement Board, and the list goes on to include 33 others. She stated these numbers are vastly disproportionate to the numbers of women who are actually involved, the numbers of women who are public employees, who are teachers, or the numbers of women who purchase housing, and, certainly, that pay taxes. She stated this resolution requires no quotas, and provides no special treatment, that it asks only for equity, that public policy boards, whose decisions affect all of Montana's men and women, should be representative of all Montanans. She indicated she hopes the committee will concur in this resolution.

List of Testifying Proponents and What Group they Represent:

Nancy Griffin, Montana Womens Lobbyist Fund  
Margaret Davis, League of Women Voters of Montana  
B. J. Wood, American Association of University Women  
Mary Gibson, Immediate Past President, Montana American  
Association of University Women; Montana Womens Lobby  
Board

Testimony:

Ms. Griffin's written testimony is attached as Exhibit 11.

Testimony:

Ms. Davis' written testimony is attached as Exhibit 12.

Testimony:

Ms. Wood indicated that, if it occurs to the committee that maybe the women are not out there, they will help find them, noting she is sure that will not be a problem. She urged the committee to pass this legislation.

Testimony:

Ms. Gibson stated she speaks from her own experience, indicating she worked on and served with a great many public committees and boards, and that she has, many times, presented recommendations for appointments, noting she spent 9 years on the Kalispell District 5 school board, a couple of years as the chair, and, in that capacity, was involved in appointments. She stated it has been her experience that men are much more often sought out, encouraged, and appointed than qualified women. She stated this resolution affirms equity

in public policy, that it asks only for equality for women, and for men, that it believes in the qualifications of Montana women for public positions, and serves as a counter-balance for centuries of exclusion from the public policy process. She reported that women in Montana first voted in 1916, which was a mere 73 years ago, noting they have come a long way but, as the statistics show, they have a long way to go. She indicated she hopes the committee will support this joint resolution.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Harding indicated it says "to the greatest extent possible", and asked if that would be a problem.
- A. Representative Stickney responded no, that this is one reason they made this into a resolution, rather than a law, noting there is nothing mandatory. She indicated they are very aware, noting they have looked through all the lists of appointed boards, that there are some which are set by statute, some which require heads of departments, and so on, and those can not always be gender-balanced, so there are a few cases where it might be difficult. She stated this is not an attempt to put up a road block, or cause trouble for those making appointments, but indicated she thinks it is an issue that needs to be raised.

Closing by Sponsor:

Representative Stickney pointed out that she thinks we can be proud of some of the famous women in Montana history. She noted we see Jeanette Rankin, every day, as we go through these halls and, noting she is from eastern Montana, one of their ladies from Miles City now has a building named for her on the Eastern Montana College campus. She indicated that most of us are not going to get statues or buildings named for us, but that all of us here, men and women alike, have spent a great of their time, noting it is very important time, on boards, on issues that are terribly important, making policy, trying to set the course for the future of our state. She stated we have a tremendous resource in our people, and she thinks we should not be overlooking half of that resource, our very talented women, when we look at filling these boards, appointing people to these boards.

Representative Stickney indicated she appreciates the committee's time and interest, and hopes they will concur in this.

Chairman Farrell announced the hearing on HJR28 as closed.

HEARING ON HJR 16

Presentation and Opening Statement by Sponsor:

Representative Tom Hannah stated that HJR16 is the result of frustration relating to what he considers to be a disproportionate amount of interest on the part of alternative health care providers to be licensed with boards. He noted there is the sunrise law, and there are all these people who say they are doing a good job, but reported there are some renegades, and that they want some oversight over the kinds of people who are holding themselves out to be professionals, for example, acupuncturists, naturopaths, massage therapists, midwives, etc.. He stated that, essentially, what this does is ask the Audit Committee to take a look at whether or not there is a need for some kind of state oversight for these alternate health care providers. He stated he is persuaded that there is at least a seed of truth to alternative health care, noting he is persuaded that there are people who can go a natural path, rather than the high chemical path which is traditional medical, and that it is better for them. He indicated his mother had rheumatoid arthritis, and she did everything from boiled tree bark to going down to Mexico to get some drugs which have not yet been approved by the FDA, to help her with the pain she has as a result of her arthritis. He reported some of those things helped, so he thinks it is wrong to bar Montana citizens from having access to alternative health care. He noted that, on the other hand, he thinks it is just as wrong to throw open the flood gate, noting they have to be licensed or have approval.

Representative Hannah indicated that it is not designed to be just those listed, that it is alternative health care, and these are just some, noting it is supposed to be more inclusive, or broader. He pointed out that the Audit Committee might be able to research these, adding that this is to get around the \$6,500 requirement, to get around the sunrise law, so that, next session, when we are trying to figure out what to do with these alternative health care providers, what to do with the sunrise law, and whether or not this particular provider or that provider can get around it, we will have a report with some teeth to it, and will know whether or not

there is merit to the idea of a super board, or an umbrella board, to cover all of these alternative health care providers. He indicated they could fall into a generic pool of alternative health care and, if they want a board, could be put together, so they can at least have some oversight. He stated he really believes it is the right direction to go, noting that, if the committee wants to expand the bill to include more people, he is overjoyed. He indicated he thinks they need to let the Audit Committee, which is their research committee, look into just what is happening out there, so that we can make informed decisions on these people who, he believes, are genuine and sincere in their efforts in health care in the State of Montana.

List of Testifying Proponents and What Group they Represent:

Gene Huntington, Montana Dietetic Association

Testimony:

Mr. Huntington indicated he thinks this committee has heard a lot about sunrise, and various occupation bills relating to health care, noting he thinks that part of the point is that the political process of creating a board, which determines what kind of regulation they have, is to sit down and see how the various professions relate to each other, and to see if there is some common way all these health care professions can be regulated, so that the different professions have the same kind of standards, and are approached in the same way, as the traditional health care professions.

He indicated the Dieticians advise or counsel people on their diet, and their concern is making sure the standards used for all professions are somewhat common, or that they have the same standards. He indicated that, in dealing with the naturopath legislation, it was suggested that they should be under the board of medical examiners, but that board did not feel they had the resources to regulate those people, and turned them away. He reported they went for their own board, but were left no avenue to achieve what they wanted, which was regulation. He indicated that, maybe, by taking a look at how other states approach this, there could be some process set up for all health care professions to go through, noting some of this is provided in sunrise, some kind of standards, so that people would have the same type of regulation, but not have the doors shut to them, and only have the resort of creating their own new board. He indicated he thinks, in terms of the studies, some things have been done in other



states, and that maybe the audit staff has done some research, already, to suggest other states have tried to deal with this.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

Q. Senator Hofman asked Representative Hannah if they are talking about group homes or day care centers, or any of that sort of thing.

A. Representative Hannah responded no, that he is talking about alternative medical health care.

Q. Senator Bengtson asked about health food stores, natural herbal diets, noting Mr. Huntington mentioned diet and nutrition, and asked how far the Audit Committee will go in trying to scope out everybody out there who is trying to improve their health, in their own way.

A. Representative Hannah responded he thinks it will be self-limiting, because there is obviously only a certain amount of money available for these kinds of things, noting the Audit Committee will not be overly endowed, he would assume, with money to be able to go far and wide. He indicated that is why he tried, also, to outline some of the areas that they have been asked to consider before, noting he does not anticipate, when they get into the study in other states, that those kinds of things will come forward. He noted he does not perceive it as being a fear.

Q. Senator Harding indicated she really does not know anything about this, and asked if any of those mentioned by Representative Hannah are regulated in any manner.

A. Representative Hannah responded he would say no, that most of them are not regulated in any manner. He noted there may be some licensing laws.

Q. Senator Harding asked if they are licensed.

A. Representative Hannah responded maybe not.

Senator Rasmussen stated that acupuncturists are, and Senator Bengtson indicated naturopaths are, also. Chairman Farrell indicated they are not, that they had

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 50 of 57

a bill in, this session, sponsored by Senator Rasmussen. Senator Bengtson pointed out that they are operating, and

Representative Hannah responded that all these people are operating, and he thinks they are operating without, which has been the argument. He indicated he has gone to college, which he needs to do to hold himself out as a licensed naturopath, but that another person may say, on his shingle, that he also is one, although he never went to school, and has nothing to back that up, noting what they have is a deception of the public. He pointed out they have somebody who is qualified, and somebody who is not, and they want the state to license them, noting that is bagging the whole question of whether or not they get under the insurance rules, but indicated that, by licensing them, they are able to help police themselves.

Representative Hannah indicated that all he is saying, with this, is that some of it is pretty persuasive to him, he thinks there is a basis for that, and that he also thinks there is a basis that some of this works. He stated that, rather than having them being pulled pillar to post, every session, by these different groups, and different people within their own membership, he thinks it is a good idea to get a report done on it, to get around the \$6,500 mandate they are asked to come forward with, and look at the umbrella idea.

- Q. Chairman Farrell pointed out that they struck an umbrella board, and asked if there was any reason for that.
- A. Representative Hannah responded yes, sunrise. He indicated they had to change the language for the state to regulate or control it.
- Q. Chairman Farrell asked if that would preclude the audit committee from recommending an umbrella board.
- A. Representative Hannah responded certainly not.

Chairman Farrell announced the hearing on HJR16 as closed.

HEARING ON HB 733

Presentation and Opening Statement by Sponsor:

Representative Vivian Brooke indicated that HB733 provides that licensed clinical psychologists be designated as professional persons, for the purposes of the mental health laws. She noted that, as the committee members are probably well aware, there are references throughout the mental health laws to professional persons, noting they will find the list of professional people on page 4, lines 5 and 6, and page 6, lines 11 and 12. She indicated they are requesting that a clinical psychologist, licensed under Title 37, Chapter 17 to practice in the state, be included in that list, as well as adding any other person who has been certified, as provided. She indicated she thinks "any other person" was probably to clarify the language in the bill which specifically deals with the clinical psychologist's inclusion.

Representative Brooke reported that she brings this bill before the committee at the request of the Montana Psychologists Association. She reported that they do not have a lobbyist, at this time, but thought there would be a proponent at this hearing. She noted she does not see that person, and indicated she will read what was to be given her. She encouraged the committee to try to understand, and realize that she is not a licensed clinical psychologist, but is giving them their testimony. At this point, Representative Brooke read the testimony, as follows:

"They are trained in the assessment and treatment of the seriously mentally ill, whereas the board of psychologists provides for careful screening and an oral examination, and it is proposed that licensed clinical psychologists be added to the list of mental health professional persons. As the law presently exists, a professional person has been defined as a medical doctor who may or may not have been trained in the diagnosis and treatment of the seriously mentally ill. Outside of psychiatry, few medical doctors choose to provide testimony in a hearing regarding competence or commitment. In order to simplify and clarify the inclusion of clinical psychologists as mental health professional persons, it is proposed that they be added, along with medical doctors, to provide testimony regarding competence and commitment. In response to concerns about licensed psychologists' awareness of current policies, procedures and institutions, on-going in-service training will be provided by the Montana Psychological Association. Also, as noted above, licensed clinical psychologists are subject to a careful oral examination, part of which focuses specifically on commitment laws and procedures. In conclusion, the proposed changes in HB733 are simply to clarify and simplify the certification process for mental health professional persons, to include those who have been

adequately trained in the determination of mental illness. Therefore, I would urge your concurrence in this, and pass bill 733."

List of Testifying Proponents and What Group they Represent:

None.

List of Testifying Opponents and What Group They Represent:

Steve Waldron, Executive Director, Montana Council of Mental Health Centers

Tom Posey, Montana Alliance for the Mentally Ill

Testimony:

Mr. Waldron stated they have some real concerns about this particular bill, and indicated the committee should know that, under the current mental health law, the commitment law, professional persons are officers of the court, and assist the court in determining whether or not a person's liberties should be removed from them. He indicated they have some real concerns with allowing one profession to automatically be an officer of the court, and be allowed to tell the court whether or not someone should have their liberties taken away from them.

Mr. Waldron reported that, currently, the Department of Institutions has oversight of professional persons, in the mental health law, and requires that anyone who becomes a certified professional person meet certain standards, that a test be taken covering the commitment laws, noting that it is important, if they are going to be telling the court they should remove someone's liberty, that they know the commitment laws. He pointed out that, just as important, is an understanding of community resources. He indicated that, while someone may have severe mental problems, it may be there are less restrictive ways of dealing with that person, and they are not convinced that everyone in private practice knows the community resources as well as they should, to insure that individuals are not placed in more restrictive settings than necessary.

Mr. Waldron indicated that, while it is true that psychologists are tested, they have a written exam, but that written exam does not cover Montana's commitment law, and does not cover Montana's community resources, noting it is a national test that psychologists take. He reported there is an oral exam, and that one of the board members indicated the oral

exam is not as extensive as the written exam provided by the Department of Institutions. He added that licensed psychologists are the only licensed mental health professionals whose licensure law does not require continuing education, and that licensed professional counselors and licensed social workers must have continuing education to retain their license. He reported that psychologists, much to their credit, have indicated their professional association will provide some ongoing education on the commitment law and procedures, and issues relating to committing mentally ill persons, but noted that, however, there is no requirement that their members participate in that training and, in fact, there is no requirement that licensed psychologists belong to the Montana Psychological Association. He noted they would be going on their word that they will provide training, adding that he does not doubt they will, but they have no way of requiring their members, or non-members, to participate.

Mr. Waldron indicated that, noting he thinks this is really important, those who deal with the mental health law, including the Department of Institutions, consumers, advocates and, of course, providers, realize that there are some problems with the law. He stated it was written in 1975, and needs to be updated, noting times have changed, and this is one issue the Department of Institutions intends to study, over the next two years. He indicated he would ask that the committee euthanize this bill, and wait for the Department of Institutions, adding that he may include consumers, providers, advocates and professionals on their study committee, to study this whole mental health law, and proceed to put that together.

Mr. Waldron indicated that, if the committee does, however, decide they really want to pass this law, he spoke to the legislative chairman, yesterday, and verbally agreed that, at a minimum, they should require psychologists to have continuing education on commitment proceedings, with courses approved by the Department of Institutions. He noted that kind of mucks things up, a bit, and that they still have not addressed the other professionals, such as licensed professional counselors and social workers, who can become certified professional persons with no requirement for continuing education specifically related to this law.

Mr. Waldron stated that is the last concern they have. He indicated that, if they bring in licensed psychologists, next session, they will have professional counselors and social workers insisting that they also be included in this law, and be automatically given the right to assist the court in taking

someone's liberty away. He stated they need certified professional persons as assistants to the court, and one issue which has been raised is that they automatically certify physicians. He indicated that, when their board met, there was a psychiatrist who felt the law was wrong to automatically certify a gynecologist or a dermatologist as a professional person, which will be another issue they will be looking at, over the next two years, as they look at re-writing this commitment law.

Testimony:

Mr. Posey stated that, for some reason, and he does not know why, everybody wants to be certified to diagnose my illness. He indicated he sometimes gets a little upset about that, because he is mentally ill, and he has the only illness in which virtually anybody who can get certified can come in and diagnose it. He noted that, for all other illnesses, it requires a physician with training in the illness. He stated that, in his case, the psychologists want to be able to come in and do it, and, as Mr. Waldron pointed out, next session, it's going to be somebody else, noting that, pretty soon, it will be school counselors and, before long, he will walk down the street, and anybody out there is going to be able to say "He's mentally ill."

Mr. Posey stated his concern goes even beyond that fact. He pointed out that there are 187 different medical disorders which mimic mental illness, and that these are known to most physicians. He pointed out that they are not necessarily known to clinical psychologists, mainly because they have not had a course in some of the other symptoms that mimic mental illness. He indicated that, often times, a person can be adjudged mentally ill, when, in fact, they may have a tumor on the adrenal gland, a pituitary anomia, or a number of other things. He stated it is hoped that a physician, because of training, can pick this up, and that is one of the reasons the law spoke to a medical professional, in deciding who would deprive someone of their liberty, under the mental health act.

Mr. Posey indicated clinical psychologists may have had some advance courses in abnormal psychiatry, psychology, they may have been trained to diagnose and treat, based on taught therapy, or a psycho-analytical evaluation, but not on medical evaluation. He stated the treatment of the mentally ill has progressed to the point it has today, because it is a two-pronged attack, the medical and the psycho-analytical, pointing out that the medical deals with chemical treatment of the illness, and the psycho-analytical deals with the

SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 55 of 57

adjustment of problems created by the disorder. He stated he thinks that, at least in diagnosing the illness, it should be left up to the physician. He noted he is not opposed to the psychologist treating the illness, but that diagnosing it, and presenting professional testimony to the court which deprives somebody of their liberty, based on half the skill needed, he thinks is unfortunate, and would hope this committee would see the validity of that argument, and issue a do not pass on this bill.

Questions From Committee Members:

- Q. Senator Hofman referred to page 6, line 13, which refers to any other person, noting he presumes, from the testimony he has been hearing, they are talking about people who can deprive people of their liberty, and asked Mr. Waldron if that is exclusively, or if that is not the case. He further asked who is the any other person who is certified, and if there are some of these now, or if this is just a clause to include people who might, some day, be certified.
- A. Mr. Waldron responded that, currently, under Montana law, a person either has to be a medical doctor, to be certified as a professional person, or has to be certified by the Department of Institutions, and that they have to have some education and clinical qualifications, in addition to written tests they must pass, in order to be certified as a professional person. He noted that he is aware of one psychologist who failed that test, once, and had to take it again. Mr. Waldron indicated the change to "any other person" is simply a clarifying change because, right now, it is a person who has been certified, and the council, when they re-did this, put it in proper English.
- Q. Senator Hofman asked if there are people, now, who are designated as such, in the Department of Institutions, and he further asked what level of people are they talking about.
- A. Mr. Waldron responded they are not in the Department of Institutions, that they can be certified by the Department of Institutions. He noted that most therapists and mental health centers seek the certified professional person certification, and added that a number of private practitioners also seek that. He indicated that, typically, there are some clinical educational standards they have to meet, and experience standards, in addition

to taking the test. He stated that a clinical psychologist who has not been in a research track, but is in a clinical track, and has the experience, would meet the clinical training and experience requirements. He indicated that, because of the fact that they were licensed, they would meet the clinical requirements, the experience requirements, but noted they still have not met the testing requirements of the Department of Institutions.

- Q. Senator Hofman indicated he is still not quite clear as to how many people there have this designation, and who they are or where they work.
- A. Mr. Waldron responded that almost all of the people who are certified professional persons in the state are in mental health centers, although there are a number of private practitioners, who also are certified professional persons. He noted that someone in private practice, who ends up dealing with a lot of schizophrenics, will usually contact the department, get their credentials checked, and take the test. He indicated he thinks it is about a 2 or 3 hour written exam, and that the department reviews their clinical experience, their educational training and, if that meets their department standards, and they pass the test, they become a certified professional person. He indicated one criticism of the certified professional person, which the psychologists have raised, noting it is a valid one, is that, once a person become certified, the department does not provide ongoing certification, that, once they are certified, they have it forever. He stated he thinks that is a real problem, that he thinks there should be ongoing educational requirements for anyone who is a certified professional person. He noted that, once again, that is one of the things they will be looking at, over the next two years.
- Q. Senator Rasmussen asked Mr. Waldron if, now, a clinical psychologist can pass the test and become certified, and this bill will automatically make them certified.
- A. Mr. Waldron responded yes, without taking the test.

Closing by Sponsor:

Representative Brooke noted that, in trying to solve the simple problem of the clinical psychologist, they raised several others which the State Administration Committee would



SENATE COMMITTEE ON STATE ADMINISTRATION

March 15, 1989

Page 57 of 57

like addressed. She indicated she realizes the seriousness that the opponent raised in taking liberties away, noting it is no small matter to assign that responsibility to a professional person, and she would certainly agree it is a strong consideration for the committee to take into their decision making. She noted that, however, in the reports she has received from the clinical psychologists, who are requesting this change, they all have Ph.D.s, which is part of their education. She added that they have gone through the licensing procedure by the Board of Psychologists, and have told her their oral exam includes testing about the Montana mental health code, which is what an individual needs to know to become a professional person in this state. Representative Brooke indicated that they are trying, at this point, to eliminate the steps needed to get another person involved in the assessment, and feel that, with their training and education, and their ongoing education, they can be that person, as well as the ones who are described in the legislation that has been examined here. She indicated she regrets that the proponent, who brought this bill through the legislative process, was not here to testify before the committee, and encouraged the committee's concurrence in this bill.

Chairman Farrell announced the hearing on HB733 as closed.

ADJOURNMENT

Adjournment At: 12:10 p.m.

  
WILLIAM E. FARRELL, Chairman

WEF/mhu  
HB148.315

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: March 15, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK			✓
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

Since the passage of HB 284 through the House, there have been questions asked in regards to wording of two sections of this bill. Section 3, 37-14-302.d.ii needs to be further defined ... a radiologist certified in radiation oncology by the American College of Radiology. Section 4, 37-14-306 Permits (6) limited should be deleted.

If these amendments are made then the following testimony is offered.

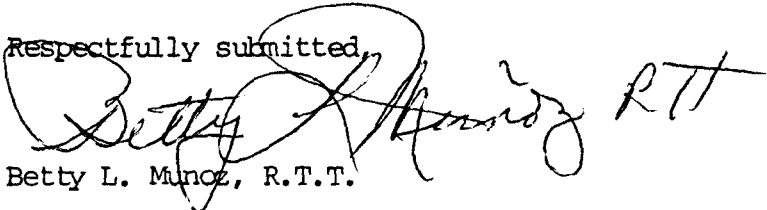
Radiologic Technology is the umbrella name for three specialties that use radiation in the delivery of medical care. Radiographers are the x-ray technologists who take x-rays of your broken bones and other parts of the body. Nuclear medicine technologists inject radioactive isotopes into a patients body that specific areas of the body will absorb. These areas are scanned by geiger counter type machines to produce a picture. Radiation therapy technologists help in planning a therapeutic radiation course and do the actual delivery of the radiation to the cancer patient. Both nuclear medicine and radiation therapy have grown into specialties of their own over the past twenty-thirty years with the advances of science and technology. With this growth special training and certification exams have been developed and acknowledged by the AMA and CAHEA. One no longer needs to be an x-ray technologist in order to attend a radiation therapy school.

One in four people will contract cancer. One's image of a life with cancer is one of great pain, suffering and little hope of cure. The stories one hears about the treatments makes one feel that even death would be more welcome. In my twenty years of practice I have seen many advances in the delivery of cancer treatment. The number of side effects and complications have decreased because our ability to deliver a tumorcidal dose of radiation to the cancer has increased. This is because of personnel and equipment.

Radiation therapy technologists deliver potentially lethal doses of radiation to cancer patients. Paralysis, blindness and loss of kidneys are some complications that can occur if treatments are not delivered properly. Technologists play as much a role in proper delivery as the physicians do in prescribing and supervising the treatment course.

Radiation therapy technologists use radiation that is 20 - 100 times more powerful than the x-rays used to visualize a broken arm. Everyone reacts when they hear of radiation accidents. Nuclear power plants, nuclear waste and atomic bombs can have a deadly effect on our environment when used improperly or stored improperly. Medical radiation is no different. Under the present law, any x-ray technologist can deliver therapeutic radiation whether or not they have had any training in radiation therapy. Radiation therapy has not been a part of the diagnostic radiology curriculum for at least fifteen years. Anyone can deliver gamma (Cobalt) or electron radiation under our present law depending on who interprets the words. I'm sure stories about Cobalt burns have been heard by the people in this room.

HB 284 will amend the present licensure bill and remove the gray areas relative to radiation therapy. It will ensure as much as is humanly possible that the cancer patient in Montana is protected from untrained operators. If your mother or father needed treatments, who would you want to deliver the treatments? Please support this amendment.

Respectfully submitted,  
  
Betty L. Munoz, R.T.T.

WITNESS STATEMENT

EXHIBIT NO. 2

DATE 3/15/89

BILL NO. HB 284

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Pamela J. Bettcher R.T.T.

DATE: 3/15/89

Address: 325 Owen St.  
Missoula, MT 59802

Phone: (406) 542-0341

Representing whom?  
St. Patrick Hospital Cancer Center

Appearing on which proposal?  
House Bill 284

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
This bill was not written and/or reviewed  
by those it will directly effect. I feel it could  
have been written better with in put from the  
15 or so Radiation Therapy Technologists it will  
govern. I do feel we are in need of a licensing  
law in this state but this one has many  
questionable points and as written will cause  
problems. If the profession of Radiation Therapy works  
together as a whole with the state I feel we can come  
up with something better.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 3/15/89

BILL NO. HB 148

WEDNESDAY, MARCH 9, 1988

The Billings Gazette

# OPINION

The Billings Gazette is dedicated to the well-being of Billings and Montana while the quality of life must be maintained.

## Commission promising

State and local governments in Montana have been playing ping pong for years.

The state bats problems into the local governments' court, and local government bats blame back at the state.

### GAZETTE OPINION

The result, of course, is uncertainty and a general distrust of the system, so the public attempts to "run"

government through the initiative process.

The state Attorney General's office has considered, or is considering, 36 voter initiatives ranging from the ridiculous to the sublime.

That path is fraught with little promise and great danger. On the other hand, it is obvious that "something" must be done.

Gordon Morris, executive director of the Montana Association of Counties, said lawmakers have treated local officials like special interest groups, rather than partners in delivering essential services.

Alec Hansen, executive director of the League of Montana Cities and Towns, said that if local officials are given a role in developing the legislation they must enforce at the local level, they would become defenders rather than victims of the Legislature.

Both men were right, and now state and local governments are considering a means to do just as Hansen suggests, to find intergovernmental solutions to problems facing this state.

In a few weeks, local officials, legislators and other state officials will meet to discuss creation of a Montana Advisory Commission on Intergovernmental Relations.

The move has great promise. For too long, the state has been balancing its problems on the shoulders of local government, while denying local government the control it needs to deal with those problems.

The commission would bring the Legislature together with local government to ensure that residents' needs take precedence over political expediency. That's a step in the right direction.

# An idea whose time has come

Historically, the Legislature has treated local taxing entities — counties, cities and schools — just like any other special interest group instead of partners in delivering necessary public services.

There also has been a great reluctance on the part of the Legislature to give local governments the power they need to perform many of these public services.

The problem is further exacerbated by the tendency of legislators to pass bills mandating that cities and counties provide a specific service or increase funding for a certain program without providing the necessary funds.

## AN IR VIEW

When the Legislature eliminated the business inventory tax local governments were assured the lost revenue would be replaced. It wasn't.

In another case cities were told to increase their contributions to the police retirement fund, but weren't given the fiscal wherewithal to carry out the mandate.

When Glen Drake of Helena served in the Montana Senate he sponsored a bill that became known as the Drake Amendment. It stated that any time the state requires local governments to perform a certain service it must provide the funding.

The Legislature got around that by providing authority to local governments to levy extra mills.

Gordon Morris of the Montana Association of Counties noted that in the days of unsophisticated local governments the Legislature probably had legitimate reasons to limit local authority. "But in the past 20 years or so the level of professionalism in local government has increased dramatically," he said.

Morris and Alec Hansen of the Montana League of Cities and Towns hope to remedy the problem via the creation of a Montana Advisory Commission on Intergovernmental Relations.

Membership probably would consist of representatives of local government, legislative leaders, special taxing entities such as conservation districts, the university system and state agencies, such as the Department of Revenue.

They hope to have the commission formed so they can meet this summer and discuss common issues and needed legislation.

An advisory commission on intergovernmental relations is long overdue.

It will promote a better understanding of the various levels of government. It will also enable members to look at the whole structure of government financing.

It's an excellent way to exchange important information and become more aware and informed about problems at all levels of government and possible solutions.

"It was local governments who got together and decided we needed a state," Hansen said. "But somewhere along the line we kinda got things backwards."

"I am sure did

SENATE STATE ADMIN.

EXHIBIT NO. 5

DATE 3/15/89

BILL NO. HB148

REFERENCE MATERIALS

RELATED TO

H.B. 148

"MONTANA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS"

PREPARED FOR

SENATE COMMITTEE ON STATE ADMINISTRATION  
SENATOR WILLIAM E. FARRELL, CHAIRMAN  
SENATOR SAM HOFMAN, VICE-CHAIRMAN

BY

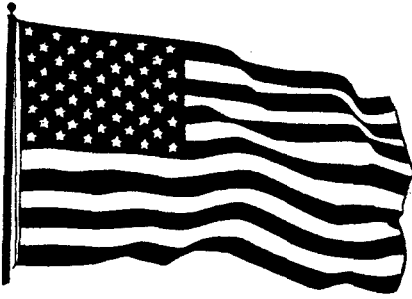
**Local Government Center**

MONTANA STATE UNIVERSITY  
Department of Political Science  
Bozeman, MT 59717



Telephone (406)-994-6694





## Missoula County Freeholders Association, Inc.

Box 7643 • Missoula, Montana 59807-7643

March 15, 1989

### Missoula County Freeholders Association

Organized 1977

Incorporated 1984

**Working For You!**

To: State Administration Committee of  
Montana Senate  
Re: House Bill 148

Mr. Chairman and Members of the Committee:

I appear before you today in opposition to HB148 on behalf of the Missoula Co. Freeholders. I would like to address this bill on several points.

We question the need for creating another layer of bureaucracy since we believe that there are adequate agencies and organizations already in place to address the needs of local governments in the state of Montana. In Montana we have the Montana Association of Counties, League of Cities and Towns, and organizations for the elected officials such as Assessors, County Attorneys, Peace Officers, etc. to which nearly every elected official belongs. Additionally, there are national organizations for these public officials.

MACO conducts district, regional, and state meetings of the County Commissioners, committee meetings, and board meetings. MACO meetings require that the commissioners spend considerable time away from their duties as local administrators. Last month 2 commissioners from our county spent 3 days in Helena and 1 commissioner was here for 4 days. They attended a MACO midwinter meeting and Governor's Conference.

National Association of Counties also conducts meeting and all 3 commissioners from our county attended that meeting in Washington DC this month.

On the state administrative level we have national organizations for Governors, Secretaries of State, legislative Councils, and task forces, etc. operating within these organizations. Don't forget, there is also a national organization of State Legislators.

Local governments, the Legislature, and the Governor's Office already have access to research facilities at the universities and in the private sector. The Legislature has the Legislative Council which does research for the legislature and local governments that request it and their library is available to anyone.

page two.

The National ACIR provides plenty of opportunity for use of its materials by local governments. There are approximately 125 of its publications in the Legislative Council Library. Their legislative program is available for a price and has been used by local governments and the legislative council for years.

Many of the bills that have passed this body have come straight from this program such as sewer district, service district, annexation and tax legislation, and more recently, the realty transfer tax bill in this session. Most of these bills, are being carried for MACO or League of Cities and Towns. I find many of the ideas in MACO's policy statement have also come from the ACIR. Boiling it all down, my point is that there is adequate opportunity for local governments to get together and talk to each other and use the material from this agency as they are now doing without creating a new agency.

Now we will address cost. MACO has a budget of \$403,000 collected directly from the counties on the basis of taxable valuation. Missoula Co. pays \$7,000 to MACO and an additional \$1,041 to NACO for a grand total of \$9,041. In addition, we have one or more of our commissioners travelling to these meetings at taxpayers expense and absent from their duties as local administrators of state law. We also have a training fund which includes travel and training, dues and memberships, and a great deal of expense for common carrier travel and lodging and meals. League of Cities and Towns, with a budget of \$100,000 (25¢ per capita) from the cities has a program similar to that of Maco and the mayors attend their individual meetings on the different levels.

In 1984 we visited the National ACIR office in Washington D.C. At that time the president was attempting to sunset the agency. It served no real need for the amount of money it was costing. They were attempting to clear out thousands of publications and shipped to our homes all requested materiel free of charge because they said it was headed for the trash. In FY 85, they had a budget of \$2,100,000 and 27 full-time and several part-time employees. They occupied 14,600 square feet of leased office space. With the threat of extinction and cuts by congress, they have shifted to just over 1,000,000 for FY 89 and 19 FTE's 9,400 square feet of office space and fewer part-time employees. State contributions to ACIR was \$119,250 in 1987. Their commission meetings are held quarterly in Washington DC and other locations.

Section 8, page 5 of this bill provides for receiving and expending money from the state, local government units, the federal government, and any public and private source. Local governments are authorized (sec 2) to appropriate money to the commission to share in the cost of its operation. These are local tax dollars.

page three.

Ex. # 6  
3/15/89  
HB 148

We realize this bill is not appropriating any money at this time, however it does authorize local government units to do so. Once this bill is passed and the agency in place you had better believe that two years from now they will be back for an appropriation of funds from the state. Mr. Chairman and Members of the Committee, There will be a cost to the taxpayers of this state.

When the National ACIR was created, it also was going to operate on grants and private money, assessments and appropriation. You will note that appropriations far outweigh any other means of acquiring money.

*comments*  
The state of Pennsylvania has an ACIR which is a non-profit corporation. South Carolina receives half of a \$239,000 budget from a state appropriation and the other half from shared -revenues from cities and counties. Pennsylvania in contrast, relies solely on grants and contracts to support its operations. Most states who have these ACIRs have a state appropriation. New Jersey has a state appropriation of \$221,000 and others have up to almost \$800,000 coming from a mix of grants and appropriations. Believe me, this will cost the taxpayers plenty somewhere down the road.

If the local public officials want to create an ACIR, then let them do it as a non-profit corporation with private funding and on their own time-----just as we in the private sector have had to do.

Under section 6 of this bill, we would be creating an autonomous agency with no limits to the number of employees it could hire, the amount of money it could spend, the amount of money it could assess local governments and no control of its activities.

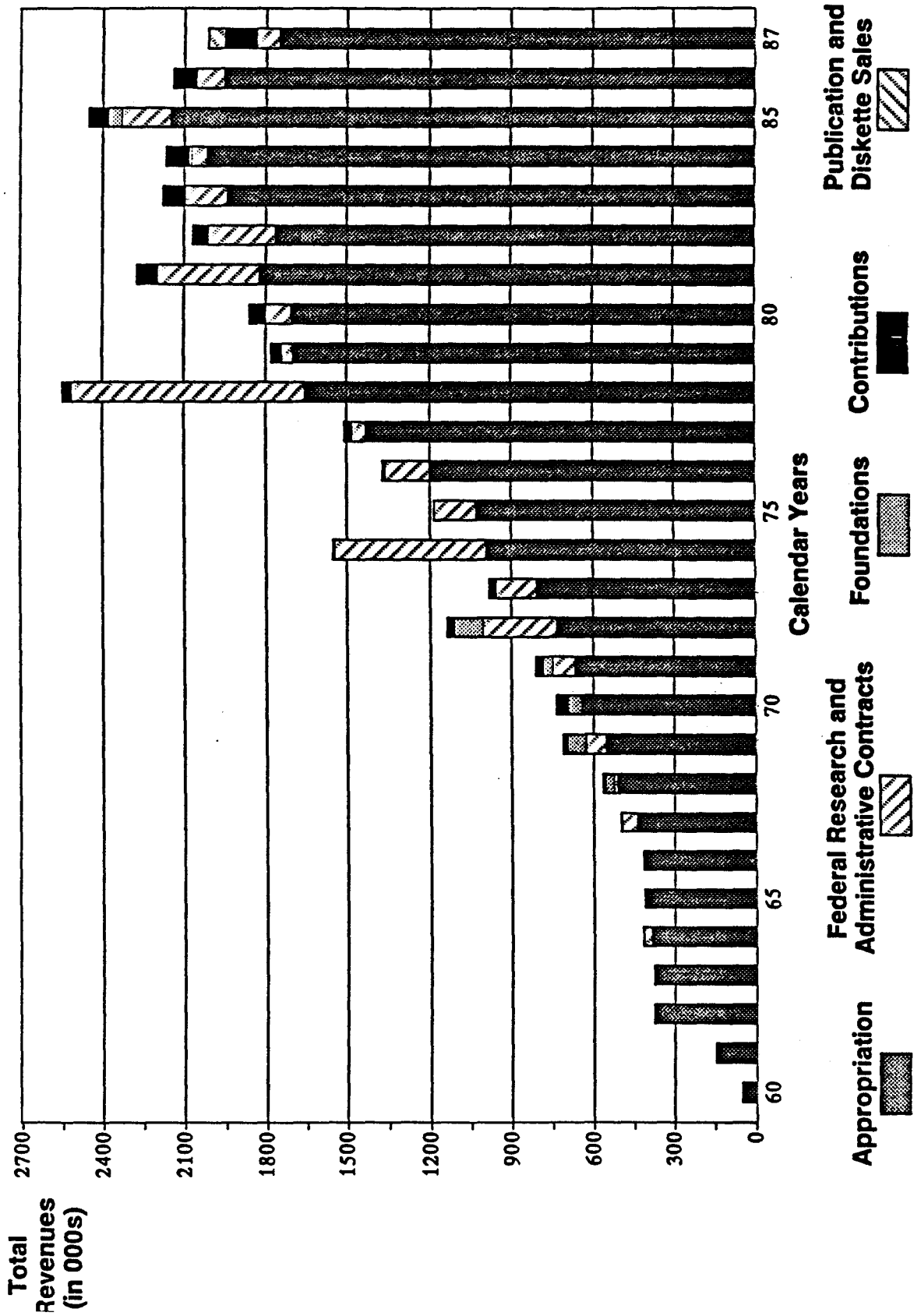
The proposed organization is top-heavy with government officials as the bill only allows for 2 private citizens as members.

*National ACIR allows only 3 Private Citizens!*  
In conclusion, if you pass this bill, the people of Montana will regret it and you as legislators will also regret your actions. Somewhere down the road the counties will assess tax dollars to fund this and in the next or some future session you will be asked for funding for this agency and if you fund it, you will have created another expensive level of unneeded bureaucracy.

I ask you to give this bill a DO NOT PASS recommendation.

Submitted by: - *Kera Cahoon*

# ACIR Revenue History, 1960-87



SENATE STATE ADMIN.  
EXHIBIT NO. 8  
DATE 3/15/89  
BILL NO. HB148

**ACIR:  
THE YEAR IN REVIEW  
29th Annual Report**

Advisory  
Commission on  
Intergovernmental  
 Relations  
Washington, D.C.

ber. Texas, through a combination of a state appropriation, publications sales, and grants and contracts, has a FY 1987 budget of \$703,768 and a 12-person staff. The Pennsylvania council relies solely on grants and contracts to underwrite its \$550,000 budget and staff of ten. The South Carolina ACIR, with four staff members, receives half of its \$239,000 budget from a state appropriation and the other half from state-shared revenues to cities and counties.

SENATE STATE ADMIN.  
EXHIBIT NO. 9  
DATE 3/15/89  
BILL NO. HB 148

*Excerpt from*

# State-Local Panels: An Overview

Michael Tetelman

**The age of "fend for yourself" federalism has forced states to reassess their policies toward local government. As suggested by the National Conference of State Legislatures (NCSL) Task Force on State-Local Relations late last year:**

One of the major challenges facing the states is to find ways to help local governments without necessarily incurring heavy financial burdens for the states . . . We believe that state-local organizations can play a pivotal role in studying and resolving local problems.

Thirteen years ago, when the Advisory Commission on Intergovernmental Relations (ACIR) first suggested that states create their own intergovernmental panels, there were only four in existence. Today, there are 25 state counterpart organizations, and over a dozen other states have proposals under consideration.

These state-local commissions fall into three structural categories: the ACIR "model," the local advisory panel, and the legislative organization. These agencies exhibit a wide variety in structure, purpose and achievement. Eighteen have been established by statute, and five have been created by executive order. Two are "private" organizations outside of state government. Staffing patterns range from part-time or loaned services to a complement of 20 full-time employees. Funding patterns also vary greatly—from no appropriation to over \$1 million.

This article highlights the structural variations and describes the diversity of topics that these commissions have addressed. The wide range of accomplishments reveals the tremendous potential of an organization to facilitate state-local relations.

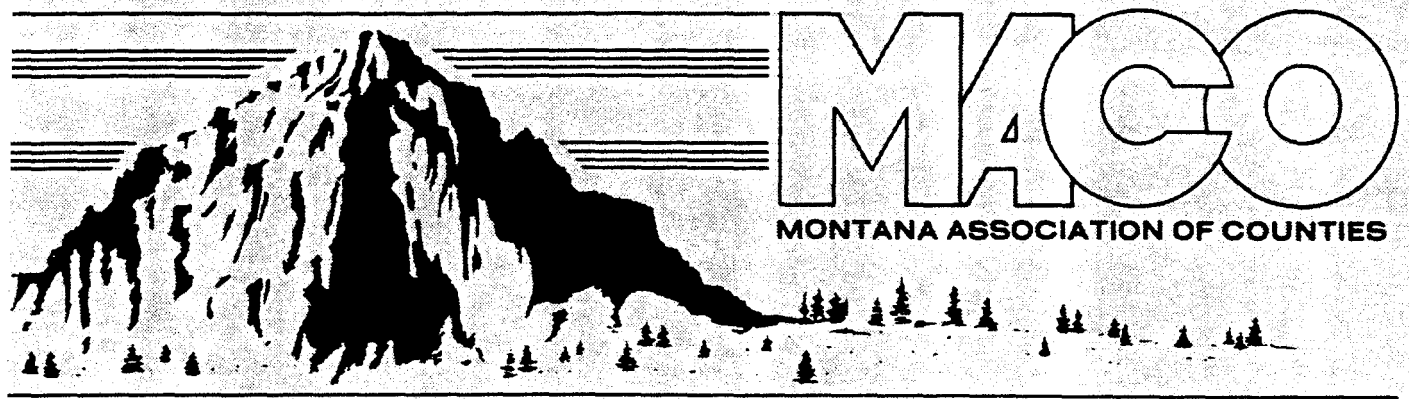
## State ACIRs

State ACIRs are markedly disparate and broadly based. There are currently 18 panels which follow the state ACIR pattern: Connecticut, Florida, Iowa, Louisiana, Massachusetts, Minnesota, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont and Washington. Although not all of these state organizations use the acronym, they generally follow the membership pattern and scope of work set out for a state ACIR. Thirteen of the commissions have been established by statute, while four have been created by executive order and one (Pennsylvania) is a nonprofit corporation.

The average size of the state ACIRs is 22 members; Massachusetts has the largest with 39, and Ohio has the smallest at 13. The membership profile exemplifies the diversity in state outlook and needs. For example, Washington's ACIR includes the state's Director of Indian Affairs, and special districts are represented in South Carolina and Texas. State and local education interests are represented in 11 states, and town and township officials are members in four states. Federal interests are represented in two states: two federal agency officials serve on the Texas ACIR, and the eight members of the congressional delegation (or their representatives) have been named to the Oklahoma ACIR.

State ACIR funding and staffing patterns also vary. At least nine of the organizations have a specific appropriation, and eight have full-time staff. The remainder of the ACIRs rely on staff and receive administrative support from other agencies (such as a department of community affairs). For example, the New Jersey panel, a well-established ACIR, has an appropriation of \$221,000 and a seven-person staff, while North Carolina currently has a budget of \$5,397 and one professional staff mem-

*Cont'd at top of Page*



11th Avenue

Helena, MT 59601

(406) 442-5209

**MONTANA  
ASSOCIATION  
OF COUNTIES**

SENATE STATE ADMIN.  
EXHIBIT NO. 10  
DATE 3/15/89  
BILL NO. HB148

**Policy  
Statements**

**JANUARY 1989-1991**

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917



SENATE STATE ADMIN.

EXHIBIT NO. 11

DATE 3/15/89

BILL NO. HJR28

H.J.R. 21 28  
Recommend: Do Pass

Gender-balanced appointments--an equitable idea. In 1987 the Iowa Legislature passed legislation which provided that "no more than a simple majority of appointed members shall be of the same gender." This law was strengthened in 1988 and passed the Iowa Legislature with a unanimous vote. Since then Kansas, Florida and Ohio have followed suit.

The Center for the American Woman and Politics researched thoroughly the contributions of women to public policy. Three major themes emerged from their seven reports. (1) Women in public office make a difference; (2) women's organizations were key in encouraging and supporting women to run for office or seek appointments; (3) women in office are as qualified and have as much political experience as their male counterparts.

Iowa began its process by development of a commission which began to develop a roster of Iowa women qualified for appointments to boards and commissions. The potential for change is obvious. An almost immediate benefit will be a more evenly balanced view of societal needs which will be reflected in all phases of state policy. As more women gain experience on boards and commissions there should be a resulting increase in the number of women seeking and winning elective office.

The National Women's Conference Committee in Washington D.C. established as its goals in 1977 to promote a joint effort by federal and state administrations, political parties, women's organizations and foundations to increase the number of women in office, including judgeships and policy-making positions; and for equal membership of women and men on state boards.

By their very presence in public life and by the different perspectives they bring to examining issues on the public agenda, elected and appointed women make a special contribution to the political process.

This resolution affirms equitable public policy. It asks only for equality. It believes in the qualifications of Montana women for public positions. This resolution serves as a counter balance for centuries of exclusion from public policy processes. Women in Montana first voted in 1916. That was a mere seventy three years ago. We've come a long way, but, as appointment stats presented to us by Representative Stickney clearly show, there's a long way to go!



SENATE STATE ADMIN.

EXHIBIT NO. 12

DATE 3/15/89

BILL NO. HJR 28

LEAGUE OF WOMEN VOTERS OF MONTANA 15 MARCH 89

Joy Bruck, president, 1601 Illinois, Helena, Montana 59601

HJR 28 - A joint resolution urging that all appointive boards, commissions, committees, and councils of the state be gender balanced.

The League of Women Voters of Montana supports HJR 28.

Women have been making their mark in Montana since statehood, but the number of women appointees has lagged behind their actual contributions to the state's economy, professions, and vocations.

The state of Montana is missing the expertise and experience of women, many of whom are prepared and willing to share their talents for the benefit of the state. The strength of Montana rests with the good men and women who are its citizens. Efforts to balance representation on state boards and commissions is positive public policy as we begin our second century of statehood.

Margaret E. Davis  
815 Flowerree  
Helena, Montana 59601  
443-3487

WITNESS STATEMENT

EXHIBIT NO. 13

DATE 3/15/89

BILL NO. HB 733

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

Tom Posey

3-15-89

Address:

17 W. MEADOW  
BILLINGS, MT 59102

Phone:

(406) 656-4309

Representing whom?

MONTANA ALLIANCE FOR THE MENTALLY ILL

Appearing on which proposal?

H.B. 733

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:

\_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

VISITORS' REGISTER

1062

STATE ADMINISTRATION COMMITTEE

DATE: March 15, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Paula J. Patten RT	St. Patrick Hospital Cancer Center, Missoula	HB 284		X
Cassidy Anderson	Board of Rad Techs	HB 284	X	
Debbie A. Minz	Columbus Hosp Great Falls	HB 284	X	
Debbie A. Minz	NRCC - Billings	HB 284	X	
Marilyn Pearson	Bd. of Sp Path/Aud	HB 396	X	
Gordon Morris	MAAC	HB 148	X	
Debbie Hupp RT				
Margaret Stans	LWV MT	HR 28	X	
Jack Simpson	Geology Assoc of Montana	HB-148		X
Ann Weaver	MSU	HB 148	X	
Becky Huns	MULT	"	X	
B. Edwards	Yd. Co.	HB 148	X	
Steve Waldron	Montana Health Center	HB 733		X
John Dapies	Self	HB 148		X
Ann Dee Herder	Dylo/MT DAV	HJ 21	✓	
Robert E. Hart	Self	Handwritten	✓	✓
B. Wood	A.A.U.W	HJ 28	✓	
Mama Jameson	mt Assoc. of Audical + Speech Path	HB 396	X	
Wendell Kent	PERSON	HB 284	X	
Anne MacDugre	Human Rights Comm	HB 336	X	
Nancy Groggin	Montana Womens Lobby	HR 28	X	
Mary Groggin	Self	NRAS	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

